

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**In re: WHIRLPOOL CORP. FRONT-
LOADING WASHER PRODUCTS
LIABILITY LITIGATION**

1:08-wp-65000

MDL No. 2001

Class action

Judge: James S. Gwin

**DEFENDANT’S APPENDIX OF KEY FACTS SHOWING THE DIFFERENCES
AMONG PLAINTIFFS’ AND OWNERS’ EXPERIENCES WITH THEIR WASHERS**

Defendant Whirlpool Corporation (“Whirlpool”) submits this Appendix to summarize in one place for the Court’s convenience the key facts underlying Plaintiffs’ claims, as well as the key facts regarding 12 Duet or Duet Sport owners who have not filed claims, and who do not wish to file claims, against Whirlpool. Plaintiffs have been deposed and have responded to written discovery. This Appendix is based, in part, on Plaintiffs’ deposition testimony and written discovery responses.

**I. THE DIFFERENT REASONS WHY PLAINTIFFS AND OWNERS DECIDED TO
PURCHASE THEIR WHIRLPOOL DUET AND DUET SPORT WASHING
MACHINES**

A. Plaintiff Trina Allison (Ohio)

1. In October 2005, Plaintiff Allison purchased a new Duet HT washing machine from an hhgregg store in Dublin, Ohio. (Def.’s Evid. Subm. Ex. 19 (“Allison Dep.”) at 23:7-8; 23:19-21.)
2. Plaintiff Allison “was in the market for a front load with the largest cubic space interior” (*id.* at 38:2-8), and she chose the Duet over the LG front-loading model because it had a larger capacity. (*Id.* at 40:21-25; 122:22-25.) The fact that the Duet washer is a high-efficiency wash system with energy and water conservation played no role in Plaintiff’s purchase decision. (*Id.* at 124:2-7; 164:25-165:3.)

3. Prior to going to HH Gregg, Plaintiff Allison saw commercials on television showing that “[t]he washers can hold up to sixteen pairs of jeans. One of the washers could hold . . . twenty-one towels.” (*Id.* at 37:23-38:1.) She did not see or hear any other advertisements for Duet washers, and she did not read or hear anything about front-loading washers other than the general capacity claims. (*Id.* at 38:17-39:16.)
4. Plaintiff Allison did not conduct any research, on the Internet or elsewhere, on the Duet washer or front-loading washers generally before she bought her machine. (*Id.* at 38:12-16.)

B. Plaintiff Gina Glazer (Ohio)

1. On April 16, 2006, Plaintiff Glazer purchased a new Duet Sport washing machine from a Best Buy store in North Olmsted, Ohio. (Def.’s Evid. Subm. Ex. 20 (“Glazer’s Interrog. Resp.”) at No. 1.)
2. Plaintiff Glazer believes her Duet Sport cost “around \$700.” (Def.’s Evid. Subm. Ex. 21 (“Glazer Dep.”) at 112:19-21.)
3. Plaintiff Glazer and her husband decided to purchase a front-loading washing machine because it “was supposed to save money, save water, save detergent, save energy.” (*Id.* at 45:23-46:2; *see also id.* at 47:24-25.) They chose the Duet Sport over a larger Whirlpool front-loader because it was smaller and would fit in their laundry room. (*Id.* at 46:21-47:8; 49:18-22.) The fact that the machine was a Whirlpool brand also played a role in the purchase decision. (*Id.* at 50:24-51:3; 69:18-25.)
4. Plaintiff Glazer did not conduct any research on washing machines before purchasing her Duet Sport washer. (*Id.* at 52:4-7.)
5. Plaintiff Glazer did not see or read any advertisements or marketing materials prior to buying her washer. (*Id.* at 54:15-55:1.)

C. Owner Megan Connell (Ohio)

1. In December 2006, Ms. Connell purchased a Duet washer and matching dryer at an hhgregg store in Ohio. (Def.’s Evid. Subm. Ex. 14 (“Connell Decl.”) ¶ 2.)
2. Ms. Connell purchased a Duet because it had a large capacity, was water and energy efficient, and was the best price at the time. (*Id.* ¶ 3.)

D. Owner Chris Dow (Ohio)

1. In April 2007, Ms. Dow purchased a Duet washer from a Lowe’s store in Cleveland, Ohio. (Def.’s Evid. Subm. Ex. 15 (“Dow Decl.”) ¶ 2.)

2. Ms. Dow purchased a Duet because it had been recommended by family members and friends and because it received a high rating from *Consumer Reports*. (*Id.* ¶ 3.)

E. Owner Sandy Perry (Ohio)

1. In July 2009, Ms. Perry purchased a Duet Sport washing machine from a Lowe's store in Bedford Heights, Ohio. (Def.'s Evid. Subm. Ex. 16 ("Perry Decl.") ¶ 2.)
2. Ms. Perry purchased a Duet Sport because it had been recommended to her from Duet owners, it was energy efficient, and it was economical in price. (*Id.* ¶ 3.)

F. Owner Mark L. Rodio (Ohio)

1. In October 2004, Mr. Rodio purchased a new Duet washing machine and matching dryer from a Lowe's store in Cleveland, Ohio. (Def.'s Evid. Subm. Ex. 17 ("Rodio Decl.") ¶ 2.)
2. Mr. Rodio purchased a Duet because he liked the Whirlpool brand name, the front-loading design, its energy efficiency, and that it was mid-range in both price and size. (*Id.* ¶ 3.)

G. Owner Phyllis Yates (Ohio)

1. In March 2009, Ms. Yates bought a Duet Sport washing machine at an hhgregg store in Chillicothe, Ohio. (Def.'s Evid. Subm. Ex. 18 ("Yates Decl.") ¶ 2.)
2. Ms. Yates purchased a Duet Sport because of its energy and water efficiency, and thus savings to her. She may have received a rebate on her purchase. (*Id.* ¶¶ 3-4.)

H. Plaintiff Bonnie Beierschmitt (New Jersey)

1. On January 4, 2005, Plaintiff Beierschmitt purchased a Duet washer from Lowe's in Lumberton, New Jersey for \$997.00, plus tax. (Def.'s Evid. Subm. Ex. 22 ("Beierschmitt's Interrog. Resp.") at No. 1; Def.'s Evid. Subm. Ex. 23 ("Beierschmitt Dep.") at 61:14-62:2; 64:7-12)
2. Plaintiff Beierschmitt purchased her Duet washer because it is energy and water efficient, is stackable, has a large capacity, has a door lock feature that prevents children from crawling in the machine (she had a two-year-old grandson at the time), and is manufactured by Whirlpool. (*Id.* at 79:10-80:1; 84:18-23.)

3. Plaintiff Beierschmitt does not recall reading or seeing any advertisements for Duet washers before she purchased her Duet washer, and she did not conduct any research on the Internet or elsewhere. (*Id.* at 75:23-79:4.)

I. Plaintiff Sylvia Bicknell (Florida)

1. On January 19, 2006, Plaintiff Bicknell purchased a Duet washing machine for \$1,352.48 from Setzer's Appliances, in Jacksonville, Florida. (Def.'s Evid. Subm. Ex. 24 ("Bicknell's Interrog. Resp.") at No. 1; Def.'s Evid. Subm. Ex. 25 ("Bicknell Dep.") at 32:8-14; 35:1-4.)
2. Plaintiff Bicknell purchased her Duet washer because she could wash more clothes per load, because the Duet washer is better on the environment (meaning that it used less energy and less soap) and because it cleaned clothes better. (*Id.* at 41:9-13.)
3. Plaintiff Bicknell also purchased a Duet washer, in part, because she had previously owned a Whirlpool-brand washer. (*Id.* at 36:22-37:2.)
4. Plaintiff Bicknell does not recall seeing any specific advertisements for Duet washers before she purchased her machine. (*Id.* at 38:14-19.)
5. Plaintiff Bicknell recalls obtaining information from an on-line subscription to *Consumer Reports* before she purchased her Duet washer. (*Id.* at 38:14-19.)

J. Plaintiff Paula Call (California)

1. On November 5, 2004, Plaintiff Paula Call purchased a Duet washing machine for \$949.99 from Costco, in Poway, California. (Def.'s Evid. Subm. Ex. 26 ("Call's Interrog. Resp.") at No. 1.)
2. Plaintiff Call purchased the Duet because Whirlpool "was a reputable company" and because the machine would save water, clean clothes better, and be gentler on clothing. She also purchased the Duet washer because it had a larger wash capacity, offered hotter wash cycles, and was easier to use. (Def.'s Evid. Subm. Ex. 27 ("Call Dep.") at 172:18-173:22.)
3. Plaintiff Call conducted extensive research before purchasing her Duet. She visited several appliance stores, reviewed information on the Internet, collected articles from *Consumer Reports*, *Home and Gardens*, and other magazines and newspapers, collected marketing material, and spoke with other front-loader owners. (*Id.* at 103:20-105:22; 107:22-108:2; 108:8-15; 126:17-127:19; 180:15-186:19.)

K. Plaintiff Mara Cohen (New York)

1. On or about February 14, 2006, Plaintiff Cohen purchased a new Duet washer from a Berger Appliance store in Hawthorne, New York for \$925, plus tax. (Def.'s Evid. Subm. Ex. 28 ("Cohen's Interrog. Resp.") at No. 1.)
2. Plaintiff Cohen purchased the Duet washer because Berger Appliance "recommended these front-loaders from an efficiency standpoint." (Def.'s Evid. Subm. Ex. 29 ("Cohen Dep.") at 53:11-24; 59:18-20; 64:25-65:4.) Ms. Cohen's contractor may also have recommended selecting a front-loader over a top-loader washing machine. (*Id.* at 59:16-18.)
3. Plaintiff Cohen also purchased the Duet because it "made sense" to her: "[t]hey're a more efficient unit," "[t]hey use[] less water," "they also fit more clothes than a top-loader, so you can get more done using less energy and water," "Whirlpool is a reputable company," and she "assumed that they would be of high quality." (*Id.* at 65:5-25; *see also id.* at 59:21-60:1.) Although Plaintiff does not recall the Berger salesperson discussing durability or reliability, she "made an assumption that if there [were] concerns with reliability or durability, that they wouldn't be recommending them or selling them." (*Id.* at 66:6-11.)
4. Plaintiff Cohen did not do any kind of research on the Internet or elsewhere before buying her Duet washer. (*Id.* at 58:20-23; 60:2-11.) She may have had her father-in-law look up ratings in *Consumer Reports*, as she has done in the past, but she does not think she did that here. (*Id.* at 63:18-22.) As far as she can recall, Plaintiff did not have any information about the Duet when she went to Berger's Appliance. (*Id.* at 64:6-9.)
5. Plaintiff Cohen did not see, read, or hear any advertisements about the Whirlpool brand or the Duet specifically prior to buying her washer. (*Id.* at 60:12-20; 62:23-63:9.)

L. Plaintiff Pramila Gardner (Texas)

1. On December 27, 2004, Plaintiff Gardner purchased a Duet washing machine for \$1,084.98 from a Best Buy store in Pearland, Texas. (Def.'s Evid. Subm. Ex. 30 ("Gardner's Interrog. Resp.") at No. 1; Def.'s Evid. Subm. Ex. 31 ("Gardner Dep.") at 25:10-20.)
2. Plaintiff Gardner and her husband purchased a front-loading washing machine because they liked the appearance and the ability to stack things on top, as well as the fact that it had a large capacity and was energy efficient. (*Id.* at 27:24-28:9; 31:3-6; 37:21-38:18.) She viewed Whirlpool as a good company and that played some role in her decision to purchase a Duet. (*Id.* at 40:5-12.)

3. Plaintiff Gardner specifically recalls reading a sign advertising that the Duet could fit twenty towels in a single load, but believes she saw that sign at Sears. (*Id.* at 35:13-36:5.)
4. Plaintiff Gardner did not do any kind of research on the Internet or otherwise before buying her Duet washer. (*Id.* at 27:12-13; 40:1-4; 43:8-44:7; 52:20-54:2.)

M. Plaintiff Jeff Glennon (New York)

1. On August 16, 2006, Plaintiff Glennon purchased a new Duet washing machine at P.C. Richard & Son in Greenvale, New York for \$838.97. (Def.'s Evid. Subm. Ex. 32 ("Glennon's Interrog. Resp.") at No. 1.)
2. Plaintiff Glennon purchased his Duet washer because he "needed a machine with more capacity and was interested in less energy usage. (Def.'s Evid. Subm. Ex. 33 ("Glennon Dep.") at 65:4-5; 74:4-8.) Plaintiff wanted a Whirlpool machine based on "the manufacture's name, reputation, price point and capacity of the machine." (*Id.* at 76:21-77:2)
3. Prior to purchasing his Duet washer, Plaintiff Glennon visited the *Consumer Reports* website, which "gave the machine very high marks for performance and reliability." (*Id.* at 26:1-27:5.) He also visited the Whirlpool website for information on "ratings for energy and features, the dimensions," but does not recall any specific representations made by Whirlpool. (*Id.* at 28:5-20; 83:1-7)
4. On or about November 27, 2007, P.C. Richard & Son credited the amount of Plaintiff Glennon's Duet washer under his extended warranty to enable him to purchase a new Duet washing machine. (*Id.* at 96:13-24; 98:9-12; Glennon's Interrog. Resp. No. 1.) Plaintiff Glennon selected another Duet washer because it was the only machine that would fit on his pedestals, which P.C. Richard & Son refused to credit, and because the salesperson at P.C. Richard recommended using his extended warranty in case the second Duet did not work. (Glennon Dep. at 101:12-21.)

N. Plaintiff Karen Hollander (Florida)

1. On January 11, 2006, Plaintiff Hollander purchased a Duet HT washer at BrandsMart U.S.A. ("BrandsMart") in Deerfield Beach, Florida for \$1,100. (Def.'s Evid. Subm. Ex. 34 ("Hollander's Interrog. Resp.") at No. 1.)
2. Plaintiff Hollander purchased her Duet washer because Whirlpool had "been in existence a long time" and because she felt that the Duet washer was a good product, had a large capacity, would thoroughly clean her clothes, and would positively affect the environment by using less water and requiring less detergent. (Def.'s Evid. Subm. Ex. 35 ("Hollander

Dep.”) at 35:14-36:2; 41:2-10.) However, the fact that Duet washers are Energy Star rated played no role in Plaintiff’s purchase decision. (*Id.* at 46:5-8.)

3. Plaintiff Hollander also only considered front-loading washing machines because they seemed more “popular” than top-loading models in that she saw more front-loading models on display at BrandsMart. (*Id.* at 40:3-10.)
4. Plaintiff Hollander did not do any research on the Internet, in *Consumer Reports*, or elsewhere about Duet washers before she purchased her washer. (*Id.* at 36:6-38:8.) She also did not recall seeing or hearing any advertisements or other representations about Duet washers before she purchased her Duet. (*Id.* at 36:10-38:8; 63:22-25.)

O. Plaintiff Rebecca Nordan (Maryland)

1. In April 2005, Plaintiff Nordan purchased a Duet washing machine for \$989.95 from ABC Appliance Sales and Services Inc. in Edgewater, Maryland. (Def.’s Evid. Subm. Ex. 36 (“Nordan’s Interrog. Resp.”) at No. 1; Def.’s Evid. Subm. Ex. 37 (“Nordan Dep.”) at 84:22-85:3.)
2. Plaintiff Nordan purchased a Duet washer because it had a large capacity, was energy and water efficient, was gentler on clothing, and she liked its appearance. (Nordan Dep. at 93:1-94:15.) She also believed it would be a reliable machine because of Whirlpool’s reputation. (*Id.* at 125:8-18.)
3. Prior to purchase, Plaintiff Nordan saw over ten television commercials for Duet washers and advertisements in “ladies magazines,” but she does not remember details of those commercials or advertisements. (*Id.* at 45:6-46:12; 47:17-48:2.) None of these advertisements made any representations about the dependability of the machine. (*Id.* at 194:12-16.)
4. Plaintiff Nordan did not conduct any research on the Internet before purchasing her machine. (*Id.* at 90:15-23.)

P. Plaintiff Maggie O’Brien (Indiana)

1. On February 11, 2005, Plaintiff O’Brien purchased a Duet washing machine for \$999.00 at Rouch’s TV and Appliance, Inc. (“Rouch’s”) in Valparaiso, Indiana. (Def.’s Evid. Subm. Ex. 38 (“O’Brien’s Interrog. Resp.”) at No. 1; Def.’s Evid. Subm. Ex. 39 (“O’Brien Dep.”) at 85:18-23.)
2. Plaintiff O’Brien purchased the Duet washer because she liked its energy efficiency, large capacity, and the fact that it was a front-loading machine, which Plaintiff O’Brien indicated was more convenient for her. (*Id.* at 89:18-23.) Plaintiff O’Brien also purchased her Duet washer based on the fact that it was manufactured by Whirlpool, which Plaintiff O’Brien

believed meant that the washer would be reliable, was a good value, and that Whirlpool would stand behind the washer. (*Id.* at 94:1-23.)

3. Plaintiff O'Brien may have seen television commercials, magazine and newspaper advertisements, and performed online searches before she purchased her Duet from Rouch's, but she could not recall the details of any of those advertisements or searches. (*Id.* at 37:18-25; 38:8-14; 38:21-39:13; 40:2-4; 41:15-42:13; 88:7-25; 184:23-185:3.)
4. Plaintiff O'Brien researched washers on the Internet prior to purchasing her Duet washer and that research confirmed her understanding that Duet washers use less water, have a large capacity, and are easier to use than top-loading machines. (*Id.* at 41:15-42:13.)

Q. Plaintiff Victoria Poulsen and her husband Henrik Poulsen (California)

1. On June 18, 2005, Plaintiff Poulsen and her husband purchased a Duet HT washing machine from Pearson's Appliance and TV ("Pearson's") in Fairfield, California for \$1,099.99. (Def.'s Evid. Subm. Ex. 40 ("Poulsen's Interrog. Resp.") at No. 1; Def.'s Evid. Subm. Ex. 41 ("V. Poulsen Dep.") at 51:5-10.)
2. Plaintiff Poulsen initially ordered and paid for the Duet. When the Duet HT came in its place, Pearson's let her have keep the Duet HT for the price of the Duet, even though the Duet HT was a more expensive model that included the Sanitary cycle. (*Id.* at 55:16-56:3; 70:17-18.)
3. Plaintiff Poulsen and her husband decided to purchase the Duet because they both wanted a machine that was durable, water and energy efficient, had good cleaning performance, and had a larger capacity. (*Id.* at 60:14-61:14; Def.'s Evid. Subm. Ex. 42 ("H. Poulsen Dep.") at 37:17-38:6; 42:19-24.) They also liked the front-loading design because it would be easier for their sons to unload and load. (H. Poulsen Dep. at 45:9-14.) Plaintiff Poulsen was also most impressed by the Duet's ability to get her laundry cleaner in a more efficient way and the fact that the tumbling action was gentler on clothing. (V. Poulsen Dep. at 73:24-73:3; 147:24-148:4.)
4. Plaintiff Poulsen "search[ed] for consumer information" and "Googled" information on Duet washers before purchasing her machine and "read many good reviews." (*Id.* at 62:6-8.)
5. The Poulsens received a rebate from their utility company after purchasing their Duet HT. (*Id.* at 67:10-25; 73:13-23.) They also received from Whirlpool two years of coupons for free HE detergent. (*Id.* at 68:2-4, 11-14; 69:1-4; H. Poulsen Dep. at 52:17-53:6.)

R. Plaintiff Sonja Sandholm-Pound (New Jersey)

1. Plaintiff Sandholm-Pound has purchased three Whirlpool Duet washing machines. (Def.'s Evid. Subm. Ex. 43 ("Sandholm-Pound Dep.") at 38:2-4.) She purchased her first Duet washer on May 19, 2004 from Art Handler's Appliance Center in Pleasantville, New Jersey for approximately \$1,150.00, plus tax. (Def.'s Evid. Subm. Ex. 44 ("Sandholm-Pound's Interrog. Resp.") at No. 1.) The first Duet washer is located at Plaintiff's beach house. (Sandholm-Pound Dep. at 67:1-3.)
2. Plaintiff Sandholm-Pound purchased a front-loading washer because she wanted a full-size stackable unit and wanted to save on energy and water. (*Id.* at 98:1-12; 99:23-100:2.) She selected the Duet washer because the salesperson at Art Handler's recommended the Whirlpool brand, and she relied on his advice. (*Id.* at 100:14-16; 106:3-7.)
3. Plaintiff Sandholm-Pound did not do any research online, in *Consumer Reports*, or elsewhere prior to purchasing her first Duet washer. (*Id.* at 98:23-25; 103:15-19; 104:1-6.) She does not recall seeing any advertisements for front-loading washing machines prior to purchasing her machine. (*Id.* at 99:3-4.)
4. On May 2005, Plaintiff Sandholm-Pound purchased a second Duet washer from Lakes Appliance in Mt. Holly, New Jersey for approximately \$2,469.94 (for both the washer and matching dryer). (Sandholm-Pound's Interrog. Resp. No. 1.) Plaintiff's second Duet washer was purchased for her primary residence. (Sandholm-Pound Dep. at 54:23-25.) Plaintiff chose the Duet washer because "up to that point, [we'd] been happy with the Whirlpool washer at the beach house." (*Id.* at 169:8-13.) She did not conduct any research, on the Internet or elsewhere, prior to purchasing her second washer. (*Id.* at 169:14-25; 172:9-15.)
5. In October 2008, Plaintiff Sandholm-Pound purchased a Duet Steam washer from Sears in Moorestown, New Jersey for \$1299.99, plus a delivery fee, extended warranty plan, and tax. (Sandholm-Pound Interrog. Resp. No. 1) The third Duet washer was a replacement machine for her second Duet washer, and it is located in her primary residence. (*Id.* at 270:14-23.)
6. Prior to purchasing her third Duet washer, Plaintiff Sandholm-Pound went to Lowe's to look at other brands of washing machines. Her visit to Lowe's was the only pre-purchase research she conducted prior to purchasing her third Duet washer. (*Id.* at 276:1-3; 277:11-13.) Plaintiff wanted to purchase a high-efficiency top-loader, but it was too expensive because she would also want to purchase a coordinating dryer. (*Id.* at 275:23-25; 277:19-25.) She then purchased the Duet Steam at Sears after the salesperson recommended the Duet Steam and assured her that Sears

would exchange her machine if it developed mold or moldy odors. (*Id.* at 281:4-14; 283:17-19.) The salesperson at Sears also recommended that Plaintiff use the Clean Washer cycle with Affresh, which was one of the reasons she purchased another Duet. (*Id.* at 281:15-282:1; 298:1-4.)

7. Plaintiff Sandholm-Pound testified that prior to purchasing her third Duet, she did not contact Whirlpool to discuss if there had been design changes to her third Duet, and she had no reason to believe that the problems she had with her first two machines “had been cured or fixed by Whirlpool.” (*Id.* at 297:7-18.)
8. Prior to purchasing any of her Duet washers, Plaintiff does not recall any seeing any specific or general advertisements related to Whirlpool washing machines. (*Id.* at 50:14-51:15.)

S. Plaintiff Shannon Schaeffer (California)

1. On February 19, 2005, Plaintiff Schaeffer purchased a Duet washing machine for approximately \$800.00 from Cagle’s Appliance Center in Ontario, California. (Def.’s Evid. Subm. Ex. 45 (“Schaeffer’s Interrog. Resp.”) at No. 1; Def.’s Evid. Subm. Ex. 46 (“Schaeffer Dep.”) at 26:16-22.) Plaintiff Schaeffer conducted the transaction by telephone. (Schaeffer Dep. at 27:2.)
2. Plaintiff Schaeffer wanted a front-loading washer for its large capacity and energy and water savings. (*Id.* at 36:14-23.) She purchased the Duet washer because her father always recommended Whirlpool as having “a good reputation for well-made products” and because the owner of Cagle’s recommended the Duet. (*Id.* at 34:7-11; 35:13-15; 62:12-13.)
3. Prior to purchasing her machine, Plaintiff Schaeffer spoke with a cousin about front-loading machines and was told that front-loaders were “an excellent choice.” (*Id.* at 37:2-8.)
4. Plaintiff Schaeffer may have also seen television commercials for front-loading washers before her purchase, which led her to want to purchase a front-loading washer. (*Id.* at 38:11-12.) She does not recall any details regarding these advertisements, including whether they were Whirlpool ads. (*Id.* at 38:13-40:23.)
5. Plaintiff Schaeffer did not perform any other research, including on the Internet, prior to buying her washer. (*Id.* at 43:14-22.)

T. Plaintiff Tracie Snyder (North Carolina)

1. On June 4, 2005, Plaintiff Snyder purchased a Duet HT washing machine for \$1200.00 from Plaza Appliance Mart store in North Carolina. (Def.’s

Evid. Subm. Ex. 47 (“Snyder’s Interrog. Resp.”) at No. 1; Def.’s Evid. Subm. Ex. 48 (“Snyder Dep.”) at 77:14-25, 78:1-6, 79:8-9.)

2. Plaintiff Snyder decided to purchase a front-loading washer instead of a top-loading washer because front-loaders “looked cool,” saved water and energy, and would allow her to wash larger loads of laundry. (*Id.* at 82:16-20, 83:20-23.)
3. Plaintiff Snyder chose the Duet HT over other types of front-loading washers because she wanted to purchase a Whirlpool-brand appliance and because the Duet HT came in the color “pewter.” (*Id.* at 79:15-21.)
4. Plaintiff Snyder recalled seeing at least one TV advertisement for Whirlpool front-loaders, and from that advertisement, she thought Whirlpool front-loaders were “supposed to be the highest end, fancy machine” and that “[y]ou could do a lot more laundry at one time [and] it was high efficiency, less water, less energy.” (*Id.* at 59:5-20.)
5. Plaintiff Snyder used the Internet to compare prices of Whirlpool front-loaders before purchase, but conducted no other research prior to purchasing the Duet HT. (*Id.* at 80:16-81:12.)

U. Plaintiff Andrea Strong (Arizona)

1. On November 19, 2004, Plaintiff Strong purchased a Duet washing machine for \$659.95 from a Spencer’s TV & Appliance store in Mesa, Arizona. (Def.’s Evid. Subm. Ex. 49 (“Strong’s Interrog. Resp.”) at No. 1; Def.’s Evid. Subm. Ex. 50 (“Strong Dep.”) at 23:10-15; 80:14-16.)
2. Plaintiff Strong purchased her Duet washer because “[i]t was recommended by the salesperson” and “possibl[y]” because of “the larger load size.” (Strong Dep. at 25:13; 29:10-16.)
3. Plaintiff Strong did not see any advertisements or marketing materials prior to buying her washer. (*Id.* at 35:5-21; 161:21-162:3; 162:22-163:6.)
4. Plaintiff Strong did not do any kind of research on the Internet or elsewhere before buying her Duet washer. (*Id.* at 25:23-26:19.) In fact, Plaintiff Strong had no information regarding washing machines prior to going to Spencer’s TV & Appliance and purchasing her Duet washer. (*Id.* at 26:16-19.)

V. Plaintiff Phillip Torf (Illinois)

1. On August, 22, 2005, Plaintiff Torf purchased a Duet Sport washing machine for \$975.00 at Abt Electronics & Appliances (“Abt”) in Glenview, Illinois. (Def.’s Evid. Subm. Ex. 51 (“Torf’s Interrog. Resp.”) at No. 1; Def.’s Evid. Subm. Ex. 52 (“Torf Dep.”) at 33:6-12.)

2. Plaintiff Torf purchased the Duet Sport because it received the salesperson's recommendation, a bigger capacity, used less water, did not have an agitator so was gentler on cold water wash items, and had a "friendly" control panel. (*Id.* at 63:20-65:22.)
3. Prior to purchasing his machine, Plaintiff Torf did not perform any research about washing machines. (*Id.* at 60:20-61:5.) Plaintiff Torf simply relied on the recommendation of the sales person at Abt, which was his usual practice in purchasing an appliance. (*Id.* at 61:9-10; 63:7-13.)

W. Plaintiff Jane Werman (Illinois)

1. On February 15, 2004, Plaintiff purchased a new Duet washer from Abt in Glenview, Illinois for \$880.00. (Def.'s Evid. Subm. Ex. 53 ("Werman's Interrog. Resp.") at No. 1.)
2. Plaintiff Werman chose her Duet washer because she wanted a stackable, high-efficiency, front-loading washing machine that would "fit a certain space" and have a large enough capacity to washer a comforter and blankets. (Def.'s Evid. Subm. Ex. 54 ("Werman Dep.") at 39:22; 47:19-23; 51:12-13.) Plaintiff Werman thought the design of front-loaders, and the Duet in particular, "was really nice" in that it "looked pretty" and seemed modern and updated. (*Id.* at 47:5-18; 49:19-24.) She also purchased the Duet washer because of "the Whirlpool name." (*Id.* at 49:14-15; 51:19-52:1.)
3. Plaintiff Werman did not conduct any research on the Internet or elsewhere prior to purchasing her Duet washer. (*Id.* at 45:19-46:4.)

X. Owners Ken and Lorna Benson (Michigan)

1. On January 29, 2005, Mr. and Ms. Benson purchased a Duet washing machine and matching dryer from a Sears store in Escanaba, Michigan. (Def.'s Evid. Subm. Ex. 55 ("Benson Decl.") ¶ 2.)
2. Mr. and Ms. Benson purchased the Duet washer because they wanted a washing machine with a large load capacity and a stackable washer and dryer. (*Id.* ¶ 3.)

Y. Owner Ericka Englert (Colorado)

1. In May 2008, Ms. Englert selected and purchased a Duet HT washing machine and matching dryer from the showroom of her new home's builder. (Def.'s Evid. Subm. Ex. 56 ("Englert Decl.") ¶ 2.)
2. Ms. Englert purchased the Duet HT washer because the washer and matching dryer were stackable, which created additional space in her

laundry room. She also liked that the Duet washer was more energy and water efficient than a conventional top-loading washing machine. (*Id.* ¶ 3.)

Z. Owner Shirley Hand (Colorado)

1. In July 2003, Ms. Hand purchased a Duet washing machine and matching dryer from a Lowe's store in Colorado. (Def.'s Evid. Subm. Ex. 57 ("Hand Decl.") ¶ 2.)
2. Ms. Hand purchased a Duet washer because it was more energy and water efficient than a conventional top-loading washing machine and because she could wash larger loads in her Duet washer as compared to conventional top-loading washing machines. (*Id.* ¶ 3.)
3. Ms. Hand also received a rebate entitling her to free delivery and coupons for a year supply of Tide HE. (*Id.* ¶ 2.)

AA. Owner Christine Piersol (Florida)

1. Christine Piersol purchased a Duet Steam washing machine and matching dryer from a Sears store in Coral Gables, Florida, on April 22, 2008. (Def.'s Evid. Subm. Ex. 58 ("C. Piersol Decl.") ¶ 2.)
2. Ms. Piersol purchased a Duet washing machine because *Consumer Reports* recommended it and she values the recommendations by *Consumer Reports*. She also purchased the machine because her sister owns another Duet model and recommended it and because the Duet is a top-of-the-line washer with a variety of features, including steam. She also liked the color and the fact that the Duet is energy efficient. (*Id.* ¶ 3.)

BB. Owner Lauren Piersol (Florida)

1. In May 2008, Lauren Piersol purchased a Duet Steam washing machine and matching dryer from a Best Buy store in Ft. Myers, Florida. (Def.'s Evid. Subm. Ex. 59 ("L. Piersol Decl.") ¶ 2.)
2. Ms. Piersol purchased a Duet because her in-laws owned a Duet and highly recommended it and because she wanted a matching washer and dryer set, she liked the Hand Wash and Active Wear cycles, and she liked the color of the machine. (*Id.* ¶ 4.)
3. Ms. Piersol received a tax rebate for purchasing an Energy Star washer. (*Id.* ¶ 2.)

CC. Owner Janisa Tharp

1. In August 2007, Ms. Tharp purchased a Duet Sport washing machine and matching dryer from a Lowe's store in Colorado. (Def.'s Evid. Subm. Ex. 60 ("Tharp Decl.") ¶ 2.)
2. Ms. Tharp purchased the Duet Sport because *Consumer Reports* recommended it. According to *Consumer Reports*, the Duet Sport saves water and energy, which Ms. Tharp liked because she thought it was good for the environment and would help her save on utility costs. *Consumer Reports* also stated that the Duet Sport cleaned clothes better than a conventional top-loading washer. (*Id.* ¶ 3.)

II. PLAINTIFFS' AND OWNERS' RECEIPT OR PURCHASE OF DIFFERENT EXTENDED WARRANTIES AND SERVICE CONTRACTS (IF ANY)

A. Plaintiff Trina Allison (Ohio)

1. Plaintiff Allison purchased a five-year extended warranty from hhgregg. (Allison Dep. at 31:4-5; 44:21-22.)

B. Plaintiff Gina Glazer (Ohio)

1. Plaintiff Glazer does not think that she purchased an extended warranty for her Duet Sport washer. (Glazer Dep. at 101:4-6.)
2. Plaintiff Glazer believes that extended warranties are "mostly just more money" and does not "think it's necessary," although she did understand that her washing machine might need a repair at some point in the future or that it could have a defect. (*Id.* at 102:4-11.)

C. Owner Megan Connell (Ohio)

1. Ms. Connell did not purchase an extended warranty for her Duet washer. (Connell Decl. ¶ 4.)

D. Owner Chris Dow (Ohio)

1. Ms. Dow did not purchase an extended warranty for her Duet washer. (Dow Decl. ¶ 4.)

E. Owner Sandy Perry (Ohio)

1. Ms. Perry purchased a one-year extended warranty for her Duet Sport washer. (Perry Decl. ¶ 4.)

F. Owner Mark L. Rodio (Ohio)

1. Mr. Rodio purchased an extended warranty for his Duet washer. (Rodio Decl. ¶ 4.)

G. Owner Phyllis Yates (Ohio)

2. Ms. Yates did not purchase an extended warranty for her Duet Sport. (Yates Decl. ¶ 5.)

H. Plaintiff Bonnie Beierschmitt (New Jersey)

1. Plaintiff Beierschmitt purchased a four-year extended warranty for \$139.97 for her Duet washer and dryer. (Beierschmitt Dep. at 121:5-19; 122:21-123:5.)

I. Plaintiff Sylvia Bicknell (Florida)

1. Plaintiff Bicknell bought a five-year extended warranty for her Duet washer from Setzers because she likes to buy extended warranties for “expensive” products. (Bicknell Dep. at 64:18-65:1; 65:21-66:5.)

J. Plaintiff Paula Call (California)

1. Plaintiff Call did not purchase an extended warranty for her Duet washer. (Call Dep. at 228:23-229:1.)

K. Plaintiff Mara Cohen (New York)

1. Plaintiff Cohen does not recall whether she purchased an extended warranty for her Duet washer, although she generally does not purchase extended warranties. (Cohen Dep. at 51:14-25.)

L. Plaintiff Pramila Gardner (Gardner)

1. Plaintiff Gardner declined to purchase an extended warranty when it was offered because she and her husband purchase extended warranties only for cars. (Gardner Dep. at 54:3-16.)

M. Plaintiff Jeff Glennon (New York)

1. Plaintiff Glennon purchased a five-year extended warranty from P.C. Richards on both his first and second Duet washing machines. (Glennon Dep. at 51:9-18; 111:7-9.)
2. Plaintiff Glennon typically purchases extended warranties with “bigger appliances” because he does not want to “incur the expense of replacing the machine after a year in case it breaks.” (*Id.* at 93:6-13; *see also* 111:13-16.)

N. Plaintiff Karen Hollander (Florida)

1. Plaintiff Hollander purchased a one-year extended warranty when she purchased her Duet washer because she does “a lot of laundry” and wanted to make sure she was covered in case any issues arose. (Hollander Dep. at 65:5-66:11; 67:1-3.)
2. Plaintiff Hollander has twice renewed her extended warranty. (*Id.* at 69:23-25.)

O. Plaintiff Rebecca Nordan (Maryland)

1. Plaintiff Nordan purchased a two-year extended warranty for her Duet washer for “peace of mind.” (Nordan Dep. at 113:10-21.)

P. Plaintiff Maggie O’Brien (Indiana)

1. Plaintiff O’Brien did not purchase an extended warranty because she does not believe in them. (O’Brien Dep. at 105:15-106:8.)

Q. Plaintiff Victoria Poulsen and her husband Henrik Poulsen (California)

1. Plaintiff Poulsen was offered an extended warranty but declined to purchase it. (V. Poulsen Dep. at 119:7-25; 121:9-11.)

R. Plaintiff Sonja Sandholm-Pound (New Jersey)

1. Plaintiff Sandholm-Pound does not believe she purchased an extended warranty on her first or second Duet washers. (Sandholm-Pound Dep. at 116:21-23; 173:11-15.) She does not typically purchase extended warranties. (*Id.* at 117:5-7.)
2. Plaintiff Sandholm-Pound purchased a five-year extended warranty on her third Duet washer. (*Id.* at 271:12-18.) She purchased the extended warranty after being told by the Sears salesperson that she could return the Duet washer and receive a replacement washer if she “had any issues with the machine whatsoever.” (*Id.* at 288:4-22.)

S. Plaintiff Shannon Schaeffer (California)

1. Plaintiff Schaeffer was not offered an extended warranty for her Duet washer, nor does she recall asking about an extended warranty when she purchased the machine. (Schaeffer Dep. at 76:6-15.)

T. Plaintiff Tracie Snyder (North Carolina)

1. Plaintiff Snyder purchased a four-year extended warranty for her Duet HT because the washer had a number of electronic components and “the more

computerized something gets, the more potential there is” for it to break down. (Snyder Dep. at 96:20-97:4, 98:2-12.)

U. Plaintiff Andrea Strong (Arizona)

1. Plaintiff Strong did not purchase an extended warranty because she typically does not buy them. (Strong Dep. at 38:25-39:7.)

V. Plaintiff Phillip Torf (Illinois)

1. Plaintiff Torf purchased a four-year extended warranty for \$99.00. (Torf Dep. at 29:4-12.)

W. Plaintiff Jane Werman (Illinois)

1. Plaintiff Werman did not purchase an extended warranty for the machine. (Werman Dep. at 131:17-24.)

X. Owners Ken and Lorna Benson (Michigan)

1. Mr. and Ms. Benson purchased a five-year extended warranty for their Duet washer. (Benson Decl. ¶ 4.)

Y. Owner Ericka Englert (Colorado)

1. Ms. Englert did not buy an extended warranty for her Duet washer. (Englert Decl. ¶ 4.)

Z. Owner Shirley Hand (Colorado)

1. Ms. Hand purchased a five-year extended warranty for her Duet washer. (Hand Decl. ¶ 4.)

AA. Owner Christine Piersol

1. Christine Piersol did not buy an extended warranty for her Duet washer. (C. Piersol Decl. ¶ 4.)

BB. Owner Lauren Piersol (Florida)

1. Lauren Piersol did not buy an extended warranty for her Duet washer. (L. Piersol Decl. ¶ 5.)

CC. Owner Janisa Tharp (Colorado)

1. Ms. Tharp did not buy an extended warranty for her Duet Sport washer. (Tharp Decl. ¶ 4.)

III. PLAINTIFFS' AND OWNERS' VARYING USE AND CARE OF THEIR WASHERS

A. Plaintiff Trina Allison (Ohio)

1. Plaintiff Allison has used only HE detergent in her Duet washer. (Allison Dep. at 26:6-9.) She determines the amount of detergent to use by the cap on the detergent bottle and the detergent instructions, with the amount she uses dependant on the size of the load. (*Id.* at 67:21-68:20.)
2. Plaintiff Allison keeps the washer door closed between wash cycles. (*Id.* at 64:10-22; 66:15-17; 79:3-15.) Plaintiff was aware that her Use and Care Guide recommended that owners leave the door ajar between use (*id.* at 78:24-25), and the service technician who came to her home within the first year instructed her to leave the washer door open (*id.* at 28:20-29:3). Despite these instructions, Plaintiff Allison still primarily keeps the door closed because “[i]t’s not conducive for me to leave it open, or it’s going to get broken off by somebody bumping into it, the kids getting hit by it.” (*Id.* at 64:19-22; 72:17-22.)
3. Plaintiff Allison uses liquid fabric softener on “[e]very one of” the fifteen to twenty loads she does per week. (*Id.* at 80:9-11; 81:8-11.) She determines how much fabric softener to use by the fill line on the dispenser drawer. (*Id.* at 81:24-82:2; 83:11-16.)
4. Plaintiff Allison uses the Heavy Duty cycle about ninety percent of the time, which is a hot water cycle, with the remainder of her cycles being on the Normal/Casual cycle. (*Id.* at 142:3-143:2; 156:15-17.)
5. Plaintiff Allison does not use chlorine bleach when she is washing laundry and does not regularly use color-safe bleach. (*Id.* at 158: 9-14)

B. Plaintiff Gina Glazer (Ohio)

1. Plaintiff Glazer used regular detergent in her machine until at least January 2008, despite her Use and Care Guide stating to use only HE detergent. (Glazer Dep. at 126:17-24; 185:12-21.) Plaintiff Glazer testified that she shifted to Tide HE detergent after January 2008, when she received an e-mail from Whirlpool instructing her to use only HE detergent. (*Id.* at 126:21-24, 127:19-22; 185:18-21.) However, Dr. Paul Taylor’s inspection of Plaintiff’s washer and laundry room on August 26, 2009 revealed that the two laundry detergents in Plaintiff’s cupboards were both non-HE detergents. (Def.’s Evid. Subm. Ex. 61 (“Expert Report of Paul M. Taylor”), at ¶¶ 10-11 & fig.2.)
2. Plaintiff Glazer does not use, and has never used, the Clean Washer cycle on her Duet Sport washer, as recommended in her Use and Care Guide. (*Id.* 124:20-25.) She has never used chlorine bleach to clean out the inside

of her machine, including after Whirlpool e-mailed her instructions recommending that she do so. (*Id.* at 131:2-8.)

3. Plaintiff Glazer has never cleaned the door seal as is recommended in her Use and Care Guide. (*Id.* at 184:12-14.) She testified that she cleans the door seal in the well area with paper towels “[w]henever [she] see[s] it needs it.” (*Id.* at 136:17-22; 137:19-23.) However, the August 26, 2009 inspection of Plaintiff Glazer’s machine by Dr. Taylor revealed that Plaintiff had not cleaned the door seal area in some time. (Expert Report of Paul M. Taylor ¶¶ 15-16, figs.4-5.)
4. Plaintiff Glazer leaves her washer door open between washer cycles “most of the time” and has done so since she first purchased her machine. (*Id.* at 77:1-13.) However, the washer door gets closed when people walk past it. (*Id.* at 132:19-20.)
5. Plaintiff Glazer does not use liquid fabric softeners or bleach in her Duet Sport machine. (*Id.* at 130:4-6; 130:21-131:1.)
6. Plaintiff Glazer uses the Normal/Casual cycle on most of her loads of laundry, which defaults to warm water wash, and uses the Heavy-Duty cycle in two loads per week, which defaults to hot water. Plaintiff Glazer does not change the wash temperature. (*Id.* at 123:16-124:12.)

C. Owner Megan Connell (Ohio)

1. Ms. Connell has always used Tide HE detergent for cold water because she washes almost everything in cold water. (Connell Decl. ¶ 6.) She measures her detergent using the cup that comes with the detergent. (*Id.* ¶ 8.)
2. Ms. Connell uses bleach in her white loads once a week. (*Id.* ¶ 7.)
3. Ms. Connell does not currently use fabric softener, but she previously used it in her machine. (*Id.* ¶ 7.)
4. Ms. Connell always leaves the door open between uses. (*Id.* ¶ 13.)
5. Ms. Connell has never done anything to clean or maintain her Duet washer. (*Id.* ¶ 9.)

D. Owner Chris Dow (Ohio)

1. Ms. Dow has always used HE detergent, either Tide or All brand, in her Duet washer. (Dow. Decl. ¶ 5.)

2. Ms. Dow uses the clean washer cycle with bleach approximately every six weeks because her Use and Care Guide instructed her to run the cycle. (*Id.* ¶ 6.)
3. Ms. Dow leaves the door open between cycles, but her children might close the door when they use the machine; she thus approximated that the door to her Duet is open about half of the time. (*Id.* at ¶ 7.)

E. Owner Sandy Perry (Ohio)

1. Ms. Perry used regular detergent in her Duet Sport until she had a suds-lock error. She then switched to HE detergent, which she has used since. (Perry Decl. ¶¶ 9, 11.)
2. Even though she received a packet of Affresh with her machine, Ms. Perry has never run a maintenance cycle or used a washing machine cleaner. (*Id.* ¶ 13.)
3. Ms. Perry washes her laundry on medium temperature, using bleach on her whites. (*Id.* ¶ 14.)
4. She has never used fabric softener. (*Id.* ¶ 15.)
5. Ms. Perry has always left the door of her Duet Sport open between cycles. This was her practice with her previous top-loading machine. She also wipes the door of the machine down after each use. (*Id.* ¶ 13.)

F. Owner Mark L. Rodio (Ohio)

1. Mr. Rodio used regular detergent for a few years before switching to HE detergent in 2005. (Rodio Decl. ¶ 11.)
2. Mr. Rodio washes his laundry on medium-warm water. He occasionally used bleach in the first few years of ownership, but no longer uses it. He used to use Downy Ultra fabric softener, but stopped using it after he noticed a small amount of water remaining in the drum after use. (*Id.* ¶ 14.)
3. Mr. Rodio did not leave the door of his machine open for the first few years of ownership. He began leaving it open when he noticed water collection in the door seal that led to discoloration of the door seal. (*Id.* ¶ 8.)
4. Mr. Rodio does not run a monthly maintenance cycle or use any washing machine cleaners. (*Id.* ¶ 12.)

G. Owner Phyllis Yates (Ohio)

1. Ms. Yates has always used HE detergent in her machine. (Yates Decl. ¶ 6.)
2. Ms. Yates uses bleach with her whites and fabric softener in every load. (*Id.* ¶ 7.)
3. Ms. Yates has never done anything to clean her Duet washer. (*Id.* ¶ 9.)
4. Ms. Yates leaves the door of her Duet open between uses. (*Id.* ¶ 13.)

H. Plaintiff Bonnie Beierschmitt (New Jersey)

1. Plaintiff Beierschmitt typically uses HE detergent in her Duet washer. (Beierschmitt Dep. at 183:2-185:13.) However, she has used regular (non-HE) detergent in her Duet washer, which a repair technician told her was “fine to do” if she used half of the manufacturer’s recommended amount. (*Id.* at 181:23-182:5.)
2. Plaintiff Beierschmitt uses the detergent manufacturers’ recommended amount of detergent, or a little less than that amount, for each load of laundry. (*Id.* at 191:6-13.)
3. Plaintiff Beierschmitt uses Clorox bleach for her white laundry once a week. (*Id.* at 196:6-197:3.)
4. Plaintiff Beierschmitt uses the Normal/Casual cycle for most loads of laundry she does in her Duet washer. (*Id.* at 173:16-21.) She washes her white loads using hot water and dark loads using cold water, and she generally uses warm water for all other types of loads. (*Id.* at 195:1-5.)
5. Plaintiff Beierschmitt used fabric softener with each load of laundry until the first repair of her Duet washer (sometime in the first year of ownership). (*Id.* at 197:4-24.) Since the first repair, Plaintiff uses fabric softener only with her sweaters. (*Id.* at 195:13-19; 198:1-7.)
6. Plaintiff Beierschmitt started leaving the washer door ajar a couple months after she purchased her Duet washer. However, because the washer is located in a walkway, members of her household frequently close the door. (*Id.* at 201:1-202:9; 203:1-4.)

I. Plaintiff Sylvia Bicknell (Florida)

1. Plaintiff Bicknell has always used HE detergent in her Duet washer. (Bicknell Dep. at 103:5-9.) She measures the amount of detergent she uses in her machine by referencing the detergent dispenser. (*Id.* at 108:15-22.)

2. Plaintiff Bicknell uses the Sanitary cycle, which uses hot water, for approximately six of the twelve loads she does each week. (*Id.* at 98:10-20; 101:21-22.) She uses the Bulky cycle and Normal/Casual cycle for the remaining loads. (*Id.* at 98:23-99:21.) After she noticed an odor, she began washing her laundry on hot or warm. (*Id.* at 101:15-102:1.)
3. Plaintiff Bicknell does not use fabric softener in her Duet washer. (*Id.* at 166:7-8.)
4. Plaintiff Bicknell does not use bleach with any loads of laundry in her Duet washer. (*Id.* at 110:17-21.)
5. Plaintiff Bicknell “probably” left the washer door open between uses since she purchased her Duet washer because that was “always [her] habit.” (*Id.* at 112:6-8.) The reason she left the door open on her Duet washer was because “it doesn’t take a rocket . . . scientist to know if there’s been water, let it dry out, leave it open.” (*Id.* at 48:18-25.)
6. Once a month, Plaintiff Bicknell runs an empty cycle with bleach on the Normal cycle. She believes she learned how to do this from the Use and Care Guide. (*Id.* at 158:19-23.) She also wipes the gasket. (*Id.* at 114:4-17.)

J. Plaintiff Paula Call (California)

1. Plaintiff Call testified that she always used HE detergent in her Duet washer. (Call Dep. at 268:20-25.)
2. Plaintiff Call did not begin leaving the door of her Duet open until instructed by Whirlpool. (*Id.* at 201:20-202:4.) She “consistently” left the door open for the remaining months she owned her Duet washer. (*Id.* at 208:7-20.)
3. Plaintiff Call did not run maintenance cycles in her machine until Whirlpool recommended it. (*Id.* at 258:22-259:6; 259:10-14.)

K. Plaintiff Mara Cohen (New York)

1. Plaintiff Cohen has “always used” high-efficiency detergent in her Duet washer. (Cohen Dep. at 73:3-9, 23-25.) However, she also testified that non-HE detergent “may have” entered into the machine. (*Id.* at 91:21-25.)
2. Plaintiff Cohen determines the amount to use by the cap on the laundry detergent. (*Id.* at 89:17-24; 90:2-11.)
3. Prior to speaking with Whirlpool regarding the mold and odor problems in her machine, Plaintiff Cohen “may have” left the washer door closed between uses. (*Id.* at 75:14-17.) Since receiving the recommendation,

Plaintiff Cohen has been “very careful not to shut the door.” (*Id.* at 75:20-21.)

4. Plaintiff Cohen does not use bleach to clean or sanitize her washing machine. (*Id.* at 79:11-25.) She has never run a monthly maintenance cycle, as recommended by her Use and Care Guide. (*Id.* at 135:23-136:13; 137:16-138:3.)
5. Plaintiff Cohen “sometimes” uses color-safe bleach if she has badly-stained laundry. (*Id.* at 91:2-10.)
6. Plaintiff Cohen does not use liquid fabric softener in her Duet washer. (*Id.* at 91:12-15.)
7. Plaintiff Cohen generally uses hot water washes and does not use cold water, although she is not sure of what temperature her babysitter (the person who does most of the laundry in her household) and housecleaner select when using the machine. (*Id.* at 57:12-58:5; 86:20-24.)

L. Plaintiff Pramila Gardner (Texas)

1. Plaintiff Gardner has always used HE detergent in her Duet, usually liquid Tide HE but sometimes Cheer. (Gardner Dep. at 48:3-5, 75:5-8, 77:15-78:7.) When she first purchased her machine, she would fill the detergent dispenser to the maximum fill line rather than following the directions on the detergent. (*Id.* at 78:21-79:19.) After getting a SUDS error code, Plaintiff Gardner checked the Use and Care Guide and discovered that she was using too much detergent. She reduced her detergent amount so that it was below the maximum fill line and has not experienced a SUDS error code since the adjustment. (*Id.* at 80:10-81:22.)
2. Plaintiff Gardner does not use bleach in her wash cycles. (*Id.* at 82:21-23.)
3. Out of the seven to ten loads of laundry Plaintiff Gardner does each week, approximately eight or nine of them are washed on the Normal/Casual cycle. (*Id.* at 75:25-76:3.)
4. Plaintiff Gardner did not leave the door of her machine open between uses until sometime in 2006 when she started noticing an odor. (*Id.* at 49:7-50:1.)
5. Plaintiff Gardner did not begin running cleaning cycles with bleach until she learned about the key-dance Clean Washer cycle on Whirlpool’s website in 2006. (*Id.* at 91:16-92:8.)

M. Plaintiff Jeff Glennon (New York)

1. Plaintiff Glennon used only HE detergent in his two Duet washers. (Glennon Dep. at 67:11; 67:18-20; 142:22-24; 148:8-14.) He determined the amount of detergent to use by the measuring cap that comes with the detergent. (*Id.* at 68:14-21.)
2. Plaintiff Glennon has not used liquid fabric softener in either of his two Duet washers. (*Id.* at 69:22-70:2.)
3. Plaintiff Glennon generally uses bleach while doing white loads of laundry, approximately once per day. (*Id.* at 70:21-71:7.)
4. Plaintiff Glennon leaves the washer door open between loads to aid in the circulation of air. He has done so with both of his Duet machines. He believes he learned to do this by reading the Use and Care Guide or on a website. (*Id.* at 71:13-72:6.)
5. Plaintiff Glennon cleaned the door seal on his first machine at least once a week using a bleach solution and “damp cloth” to wipe “around and . . . under the gasket.” (*Id.* at 146:24-147:11.)
6. Within the first month of owning his first Duet washer, Plaintiff Glennon ran a monthly maintenance procedure with hot water and bleach. He ran the maintenance cycle every month or more frequently as the odor increased. (*Id.* at 147:14-148:4.)

N. Plaintiff Karen Hollander (Florida)

1. Plaintiff Hollander has used HE detergent in her Duet washer since the first load she washed in the machine. (Hollander Dep. at 105:11-106:4.)
2. Plaintiff Hollander measures the amount of detergent she uses for each load based upon both the Max Fill Line in her detergent dispenser and the cap that comes with her detergent bottles. (*Id.* at 110:4-112:9.) She does not know if the amount of detergent used ever comes up to the Max Fill Line. (*Id.* at 112:10-12.)
3. Plaintiff Hollander leaves the door “fully open all the time” and has done that since she first used the machine. (*Id.* at 88:10-16; 115:12-24.) Plaintiff was advised to leave the door open by the man who delivered her machine. (*Id.* at 115:25-116:3.)
4. Plaintiff Hollander “believe[s]” she started running an empty cycle with Clorox on the Normal cycle about three or four months after purchasing her Duet washer and before she noticed any mold problems. She testified that she runs the Clorox cycle about once a month, although she also

stated that she has only run the Clorox cycle eight times. (*Id.* at 123:11-125:23.)

5. Plaintiff Hollander wipes the door seal with a rag after each time she uses the Duet washer and has done so since she first purchased her machine. (*Id.* at 118:1-119:3.)
6. Plaintiff Hollander cleans out the detergent dispenser drawer “[m]aybe” once a month. (*Id.* at 119:12-19.)
7. Plaintiff Hollander occasionally uses bleach for her white loads. (*Id.* at 113:13-114:4.) She does not use liquid fabric softener in her Duet washer. (*Id.* at 112:22-25.)
8. Plaintiff Hollander uses the Normal/Casual cycle every day and also uses the Whitest Whites and Heavy Duty cycles occasionally. She does not manually select her own temperature setting. (*Id.* at 102:19-103:25.)

O. Plaintiff Rebecca Nordan (Maryland)

1. Plaintiff Nordan has always used HE detergent in her washer, either Tide or All, and uses one capful of detergent per load. (Nordan Dep. at 61:13-20, 62:14-63:16.)
2. Plaintiff Nordan uses liquid fabric softener in roughly three loads per week. (*Id.* at 145:12-15.) She uses bleach once every two weeks with her white loads. (*Id.* at 145:16-21.) She washes dark clothing with cold water and other clothing with warm water. (*Id.* at 140:1-2.)
3. Plaintiff Nordan started leaving her washer door open between loads about a month after purchase at the suggestion of her brother. (*Id.* at 147:15-18, 155:16-156:3.)
4. Plaintiff Nordan wipes the inner door and behind the gasket (sometimes with mild soap and water but other times with a bleach solution) after she is finished doing loads of laundry. (*Id.* at 149:15-150:13.) She began wiping the gasket with a bleach solution at the suggestion of Whirlpool. (*Id.* at 150:7-13.)
5. Plaintiff Nordan did not begin running a maintenance cycle with bleach until after she contacted Whirlpool in September 2005. (*Id.* at 55:16-21.)

P. Plaintiff Maggie O’Brien (Indiana)

1. Plaintiff O’Brien has used only HE detergent in her Duet washer. (O’Brien Dep. at 27:24-28:1.) Until a service technician instructed her to use less detergent, she followed the detergent manufacturer’s suggestions in determining how much detergent to use in each load. (*Id.* at 50:18-

51:2.) After her service call, she began using about “half of what [she] would normally use.” (*Id.* at 131:23-132:16.)

2. Plaintiff O’Brien generally uses warm water in her machine. (*Id.* at 126:16-22.)
3. Prior to her first service call in January 2006, Plaintiff O’Brien used liquid fabric softener about once a week in her Duet washer. (*Id.* at 27:1-23.)
4. Plaintiff O’Brien “rarely” uses bleach in her Duet washer. (*Id.* at 119:24-120:19.)
5. Plaintiff O’Brien did not start leaving the machine door open until January 2006. (*Id.* at 52:3-11; 53:20-22.) She sometimes shuts the door during the day after the machine “drie[s] out.” (*Id.* at 54:1-15.)
6. Plaintiff O’Brien did not run a maintenance cycle with bleach until Whirlpool recommended doing so in 2006. (*Id.* at 29:7-11.)

Q. Plaintiff Victoria Poulsen and her husband Henrik Poulsen (California)

1. Plaintiff Poulsen and her husband have always used HE detergent. (V. Poulsen at 84:4-9; H. Poulsen Dep. at 52:10-16.)
2. Plaintiff Poulsen most frequently uses the Normal/Casual cycle. (V. Poulsen Dep. at 154:17-18.)
3. Plaintiff Poulsen and Mr. Poulsen did not begin leaving the door of their Duet HT open and running monthly maintenance cycles until 2008. (V. Poulsen at 85:12-19; 86:14-16; H. Poulsen Dep. at 53:12-19.)
4. Plaintiff Poulsen used Downy fabric softener in nearly every load until sometime in 2006 when a service technician advised her that it “increases problems.” (V. Poulsen Dep. at 138:4-19.)
5. Plaintiff Poulsen rarely uses chlorine bleach and has never used color safe bleach in her Duet washing machine. (*Id.* at 139:5-12; 143:14-18.)

R. Plaintiff Sonja Sandholm-Pound (New Jersey)

1. Plaintiff Sandholm-Pound has always used HE detergent in her Duet machines. (Sandholm-Pound Dep. at 46:17-19; 177:25-178:1; 303:24-304:6.) She believes she first learned that she needed to use HE detergent from the Quick Start Guide that accompanied her first Duet washing machine. (*Id.* at 38:16-20.) Plaintiff Sandholm-Pound believes that, during the summer of 2005, a renter in her beach house may have used non-HE detergent. (*Id.* at 137:24-138:5.)

2. Plaintiff Sandholm-Pound determines the amount of detergent to use by filling the detergent cap up to the “indicator mark that says Number 1” and uses the same amount of detergent no matter what the size of the load is or what cycle she is using. (*Id.* at 48:13-49:11; 178:23-179:3.)
3. Plaintiff Sandholm-Pound “always” washes on cold temperature setting. (*Id.* at 127:18; 146:2,;)
4. Plaintiff Sandholm-Pound does not use fabric softener in any of her Duet machines, and she occasionally uses bleach on the Whitest Whites cycle. (*Id.* at 151:19-23; 179:4-9; 300:9-10; 304:5-9.)
5. With her first and second Duet washers, Plaintiff Sandholm-Pound initially left the door closed between uses. (*Id.* at 179:16-18.) She started leaving the door open after she was instructed to do so by the repair technician who inspected her second machine, likely in September 2005. (*Id.* at 179:10-15.) Plaintiff leaves the door open on her third Duet machine and has done so since she purchased the machine. (*Id.* at 304:2-4.)
6. Plaintiff Sandholm-Pound did not run empty cycles with bleach on the first and second machines until the repair technician advised her to do so in September 2005. (*Id.* at 159:5-11; 181:20-182:1.)
7. In her third Duet washer, Plaintiff uses the Clean Washer cycle with Affresh tablets when the indicator light comes on. (*Id.* at 298:5-15.) She does not use bleach as a method of sanitizing or cleaning her third machine. (*Id.* at 304:7-19.)
8. Plaintiff Sandholm-Pound stated that she does not clean the door seal, other than pulling out socks and other items that get stuck in the door seal. (*Id.* at 181:7-12; 157:22-23.) However, she also testified that she has wiped the interior door with a damp cloth or paper towel whenever she notices that there is a buildup. (*Id.* at 154:23-155:16; 214:21-23; 266:2-7.)

S. Plaintiff Shannon Schaeffer (California)

1. Plaintiff Schaeffer has used HE detergent since purchasing her Duet washing machine. (Schaeffer Dep. at 86:11-13.) Plaintiff Schaeffer uses “about half” of the recommended amount of detergent, filling only to the smallest line on the detergent cup. (*Id.* at 85:24-86:6; 110:5-9; 112:22-113:4.)
2. Plaintiff Schaeffer used liquid fabric softener in her machine a couple of times per week, until sometime in approximately late 2008 or early 2009 when she spoke with a Whirlpool representative and stopped using it. (*Id.* at 86:14-87:6.)

3. Plaintiff Schaeffer uses bleach “occasionally” when she runs the Whitest White cycle. She determines the amount of bleach to use based on the Max Fill Line on the detergent dispenser, rather than using the recommended amount on the bleach container. (*Id.* at 108:19-109:15; 119:24.)
4. Plaintiff Schaeffer “might” wipe the door seal with a towel after she runs a load of laundry, although she does not recall if she did this before she noticed the mold problem and had not read anything about the need to clean the door seal prior to having any problems. (*Id.* at 98:3-19; 99:21-24.)
5. Plaintiff Schaeffer uses the Normal wash cycle most frequently, although since experiencing the odor and mold problems, she will manually change it to hot water “on occasion.” (*Id.* at 106:8; 107:16-18; 118:1-4.)

T. Plaintiff Tracie Snyder (North Carolina)

1. Plaintiff Snyder has always used HE detergent (Snyder Dep. at 129:5-7.) Since her Duet HT displays a SUDS error code one or two times a week, Plaintiff Snyder has reduced the amount of detergent from the dose recommended on the detergent bottle to an amount so small it “barely cover[s] the bottom of the [detergent dispenser] container.” (*Id.* at 123:10-13, 127:13-15, 128:16-22.)
2. Plaintiff Snyder uses the Normal/Casual cycle approximately 98% to 99% of the time. (*Id.* at 121:12-17.) She uses an extra rinse cycle with towel loads to avoid a SUDS-error code. (*Id.* at 122:12-123:19.)
3. Plaintiff Snyder did not begin running a maintenance cycle with bleach until instructed to do so. (*Id.* at 136:21-138:12.)
4. Plaintiff Snyder closed her washer door open between uses for the first year after purchase, until she was instructed to leave the door open. (*Id.* at 89:10-13, 135:18-20; 136:8-12.)

U. Plaintiff Andrea Strong (Arizona)

1. Plaintiff Strong has used only HE detergent in her Duet machine. (Strong Dep. at 55:9-19.) She determines how much detergent to use by both the cap on the detergent bottle and the Max Fill Line on the Duet’s detergent dispenser. (*Id.* at 57:22-58:11.)
2. Plaintiff Strong uses the Normal/Casual cycle for ninety percent of her loads. (*Id.* at 50:22-51:2.) She sets her machine to run hot water when she washes her towels or performs a maintenance cycle with bleach. (*Id.* at 52:10-24.)

3. Plaintiff Strong uses liquid fabric softener with every load and determines the amount to use by the cap on the fabric softener. (*Id.* at 59:4-60:6.)
4. Plaintiff Strong does not use bleach in her wash cycles. (*Id.* at 60:9-19.)
5. Plaintiff Strong leaves the washer door open between uses and has done so since she purchased her machine in December 2004. (*Id.* at 62:17-24.) Plaintiff leaves the door open because her Use and Care Guide explains to do so and because Whirlpool recommended that she leave the door open when she called them regarding a musty odor in her washer. (*Id.* 34:2-9; 63:5-11.)
6. Plaintiff Strong did not begin running a maintenance cycle with hot water and bleach until instructed by Whirlpool in around November 2007. (*Id.* at 53:11-23.)
7. Plaintiff Strong began wiping out her machine with a cloth and warm water in June 2007 when she began noticing what she thought was mold. (*Id.* at 86:12-87:5.)

V. Plaintiff Phillip Torf (Illinois)

1. Plaintiff Torf does not always use HE detergent. (Torf Dep. at 51:23-52:2; 55:2-3; 144:3-6.) When using liquid detergent, he measures it by the markings on the detergent's cap, and generally uses the lowest marking to avoid over-sudsing. (*Id.* at 105:11-23.)
2. Plaintiff Torf often uses the Heavy Duty cycle and an extra rinse cycle to make sure the detergent comes out. (*Id.* at 101:10-11; 102:16-19.)
3. Plaintiff Torf does not use liquid fabric softener. (*Id.* at 53:23-54:1.)
4. Plaintiff Torf sometimes uses bleach with his white laundry. (*Id.* at 106:8-107:4.)
5. Plaintiff Torf did not run a monthly cleaning cycle with bleach until instructed to do so by a service technician in 2008. (*Id.* at 45:8-11; 49:3-5.)
6. Plaintiff Torf sometimes left the machine door ajar between uses because he knew moisture can lead to mold. He made sure to consistently leave the door open after being instructed to do so by a service technician in 2008. (*Id.* at 45:19- 46:2, 68:14-24.)

W. Plaintiff Jane Werman (Illinois)

1. Plaintiff Werman has used HE detergent since she purchased the machine. (Werman Dep. at 97:20-22; 198:22-199:3.) She currently uses Tide HE

powder detergent and Charlie's Laundry Soap powder, which she testified was an HE detergent. (*Id.* at 95:4-5; 98:22-99:2.)

2. Plaintiff Werman initially left the door to the washer closed between uses, but started leaving the door open when she noticed a mildew odor and has done so since. (*Id.* at 64:22-65:22; 199:20-23.)
3. Plaintiff Werman does not use fabric softener. (*Id.* at 81:21-24)
4. Plaintiff Werman "[r]arely" uses bleach in her wash cycles, using a Clorox-type bleach if she were cleaning white T-shirts or socks that looked "dingy." (*Id.* at 101:5-21.)
5. Plaintiff Werman initially used cold water for her delicates and warm or hot water for everything else. Sometime after 2005 (when the mildew problem "got really terrible"), she switched to using cold water for most loads. Plaintiff Werman currently uses mostly cold water. (*Id.* at 89:20-91:22.)
6. Beginning in or around the spring of 2005, Plaintiff Werman wipes behind the door seal with a dry rag every couple of loads. (*Id.* at 78:4-15.)

X. Owners Ken and Lorna Benson (Michigan)

1. Mr. and Ms. Benson did not begin using HE detergent and leaving the door open between uses until instructed to do so by a service technician (who came for a repair unrelated to mold problems). (Benson Decl. ¶ 9.) Mr. and Ms. Benson measure their detergent by the Max Fill Line in the detergent dispenser. (*Id.* ¶ 10.)
2. Mr. and Ms. Benson do not run a monthly maintenance or Clean Washer cycle. (*Id.* ¶ 12.)

Y. Owner Ericka Englert (Colorado)

1. Ms. Englert uses Method-brand HE detergent and follows the detergent manufacturer's instructions to determine the amount of detergent to use for each load of laundry. (Englert Decl. ¶ 10.)
2. Ms. Englert runs a monthly maintenance cycle with bleach. (*Id.* ¶ 7.)
3. Ms. Englert sometimes leaves the machine door cracked open between uses. (*Id.* ¶ 13.)

Z. Owner Shirley Hand (Colorado)

1. Ms. Hand has always used HE detergent in her Duet washer. She generally fills the detergent dispenser to the Max Fill Line for each load of laundry.
2. Ms. Hand also uses bleach and fabric softener with each load of laundry, filling the dispensers to the Max Fill Line. (Hand Decl. at ¶ 13.)
3. Ms. Hand does not run a monthly maintenance or Clean Washer cycle. (*Id.* ¶12.) She also does not use any washing machine cleaners. (*Id.*)
4. Ms. Hand has always kept her machine door closed between uses. (*Id.* ¶ 11.)

AA. Owner Christine Piersol (Florida)

1. Christine Piersol always uses HE detergent, usually Tide HE. She determines the amount of detergent to use by the cap on the detergent bottle, which never approaches the Max Fill Line on the detergent dispenser. (C. Piersol Decl. ¶ 14.)
2. Ms. Piersol runs the Clean Washer cycle with Affresh tablets every month. She has done this since she first purchased her machine. (*Id.* ¶ 12.) She also cleans the door seal on occasion. (*Id.* ¶ 13.)
3. Ms. Piersol leaves the door open for a day after she uses the machine (usually on Saturdays). The next day, she can see that the washer is dry and she closes the door. (*Id.* ¶ 15.)

BB. Owner Lauren Piersol (Florida)

1. Lauren Piersol always HE detergent, usually Cheer HE, in her machine. (L. Piersol Decl. ¶ 14.) She determines the amount of detergent to use by the cap on the detergent bottle. The amount she uses never approaches the Max Fill Line on the detergent dispenser. (*Id.* ¶ 14.)
2. Ms. Piersol cleans her detergent dispenser drawer once a month so that detergent and fabric softener residues will not build up and cause mold to grow. (*Id.* ¶ 13.)
3. Ms. Piersol usually leaves the door ajar after using her machine and does not believe this presents any safety concern for her toddler. (*Id.* ¶ 16.)
4. Ms. Piersol runs the Clean Washer steam cycle with Affresh every month and has done so since she purchased her machine. (*Id.* ¶ 10.)

CC. Owner Janisa Tharp (Colorado)

1. Ms. Tharp uses Costco-brand HE detergent. She uses a smaller amount of detergent than the detergent maker recommends. (Tharp Decl. ¶ 9.)
2. Ms. Tharp uses bleach once per week, or in about 25% of her loads. She uses approximately half a bottle-cap of bleach in each of those loads, alternating each week between chlorine bleach and Clorox Ultimate Care Bleach. (*Id.* ¶ 10.)
3. Ms. Tharp leaves the machine door cracked open between uses about half of the time. (*Id.* ¶ 13.)
4. Ms. Tharp has never used the monthly Clean Washer cycle on her Duet Sport or any washer cleaner products. (*Id.* ¶ 12.)

IV. THE DIFFERENT PROBLEMS (IF ANY) THAT PLAINTIFFS AND OWNERS HAVE EXPERIENCED

A. Plaintiff Trina Allison (Ohio)

1. Plaintiff Allison “started noticing problems” within the first year of purchasing the machine (between October 2005 and October 2006), likely within the first six months. (Allison Dep. at 30:11-24; 111:14-20.)
2. The first problem Plaintiff Allison noticed was an odor in her towels, which occurs “every time” she washes the towels. (*Id.* at 42:9-18; 88:12.) She has also noticed an odor in her knit sweaters and t-shirts. (*Id.* at 57:3-13.)
3. Plaintiff Allison has noticed mold growth on the plastic outer tub, the plastic tub ring behind the boot, the interior side of the door hinges, and the detergent drawer. (*Id.* at 59:1-60:1; 34:14-17.) She has also seen discoloration under the door seal. (*Id.* at 33:12-17.)
4. Plaintiff Allison has never seen mold growth on her clothing. (*Id.* at 178:22-179:2.)
5. Plaintiff Allison has noticed an odor in the machine, which is stronger when the washer door is open. The odor is noticeable in the laundry room but not in the foyer outside the laundry room. The odor has never drifted out of the laundry room into another room in the house. (*Id.* at 89:1-21.)

B. Plaintiff Gina Glazer (Ohio)

1. Plaintiff Glazer first noticed odor in the machine about eight months after purchasing the machine. (Glazer Dep. 145:7-10.) The odor was initially occasional, but has become worse over time. (*Id.* at 144:13-15).

2. Plaintiff Glazer testified that there is an “awful smell” coming from the machine both when it runs and when it is not in use. The smell is worse when the machine is in operation. (*Id.* at 58:11-25; 89:12-14.) According to Plaintiff Glazer, if the laundry room door is open, one can smell the odor “all the way upstairs.” (*Id.* at 61:25-62:1.)
3. Plaintiff Glazer has observed mold growing on the rubber door seal and some growth in the detergent dispenser. (*Id.* at 58:13-14; 59:1-3; 138:11-17.)
4. Plaintiff Glazer has noticed standing water, “like a stagnant pool,” inside the rubber door seal. (*Id.* at 59:6-9; 61:2-5.)
5. In or around May 2009, Plaintiff Glazer noticed an odor in a “few” t-shirts and on her sheets. (*Id.* at 156:5-14; 161:5-7.) However, the vast majority of clothes that come out of the machine do not smell. (*Id.* at 228:1-3.)

C. Owner Megan Connell

1. Ms. Connell has never noticed any moldy or mildew smells in her Duet washer. (Connell Decl. ¶ 10.)
2. At some point, she noticed a faint odor of mildew in her towels. She began washing them on the sanitary cycle, and the odor went away. (*Id.* at ¶ 11.)

D. Owner Chris Dow

1. Ms. Dow’s Duet washer has never developed any visible mold or mildew, and it has never emitted any type of unpleasant odor, either from the machine or from clothing washed in the machine. (Dow Decl. ¶ 10.)

E. Owner Sandy Perry

1. Ms. Perry has never noticed mold, mildew, or any other residue in her Duet Sport washer. (Perry Decl. ¶ 7.)
2. Her Duet Sport washer has never smelled of mold or mildew, nor have the clothes, towels, or other items washed in her machine ever smelled of mold or mildew. (*Id.* at ¶ 8.)

F. Owner Mark Rodio

1. Mr. Rodio’s Duet washer has never smelled of mold or mildew, nor have the clothes, towels, or other items washed in the machine ever smelled of mold or mildew. (Rodio Decl. ¶ 9.)

2. Within the first few years of owning his machine, Mr. Rodio observed that a small amount of water collected on the door seal after each wash and began causing discoloration of the rubber on the door seal. (*Id.* ¶ 8.)

G. Owner Phyllis Yates

1. Ms. Yates has never noticed any moldy or mildewy smells in her Duet Sport washer. (Yates Decl. ¶ 10.)
2. Ms. Yates has never noticed any odors on her towels or other laundry items and they come out of the wash smelling clean. (*Id.* ¶ 11.)

H. Plaintiff Bonnie Beierschmitt (New Jersey)

1. Plaintiff Beierschmitt first noticed odors in her Duet washer a few months after she purchased it. (Beierschmitt Dep. at 237:8-20.)
2. Plaintiff Beierschmitt noticed a moldy smell both in her washer and on the clothes that came out of her washer, which she was initially able to control by re-washing the clothes. (*Id.* at 237:21-240:11.) The smell in her Duet washer has become worse and varies in intensity on a daily basis. (*Id.* at 241:4-15; 242:23-243:6.)
3. Plaintiff Beierschmitt noticed that the smell is the worst on towels and other heavier items that are washed in her machine and is not as bad for thinner items that are washed in the machine. For example, “[f]luffier” towels are worse than thinner towels. (*Id.* at 240:12-241:3; 302:18-303:24.)
4. Plaintiff Beierschmitt also noticed visible mold on the door seal, dispenser drawer, and in the sump/filter at the bottom of her Duet washer. (*Id.* at 292:13-293:24.) She first noticed visible mold in her machine approximately one month after she started smelling the musty odor in her machine. (*Id.* at 238:15-239:1.)

I. Plaintiff Sylvia Bicknell (Florida)

1. Plaintiff Bicknell first noticed a smell in her Duet washer several months after she purchased it. (Bicknell Dep. at 140:22-25.) Plaintiff Bicknell notices the smell in the washing machine itself, but the odor does not extend to the laundry room or permeate the rest of her home. (*Id.* at 141:17-23; 179:23-25.)
2. Plaintiff Bicknell noticed black specks on the door seal of her Duet washer, but she could not recall when she first noticed the black specks. (*Id.* at 138:19-139:7). She does not know whether the black specs are mold. (*Id.* at 139:8-17; 140:1-8.) Plaintiff Bicknell has never seen any

mold in the detergent dispenser drawer in her Duet washer. (*Id.* at 117:14-19.)

3. Plaintiff Bicknell has also noticed a foul odor in her dryer. (*Id.* at 141:24-142:17.) She admitted that the clothes she washes in her Duet washer have more of an odor after they come out of the dryer than they do after coming out of the washing machine. (*Id.* at 162:25-163:2.)
4. Plaintiff Bicknell's clothes are not stained when they come out of her washer. (*Id.* at 163:24-164:2.)

J. Plaintiff Paula Call (California)

1. Plaintiff Call noticed a mold and mildew smell about a month after she purchased her Duet washer. (Call Dep. 290:17-20.) According to Plaintiff Call, there was a strong odor in both the machine and on items washed in it. Plaintiff Call first noticed a smell on her towels after her children complained that they "smell[ed] weird." (*Id.* at 290:20-292:21.)
2. Plaintiff Call's Duet washer does not have any visible mold or mildew. (*Id.* at 293:15-16.)

K. Plaintiff Mara Cohen (New York)

1. Plaintiff Cohen testified that her Duet washer has "two basic flaws": (1) mold grows in the machine (specifically, on the door seal); and (2) the laundry smells if she does not immediately remove the clothing from the washer at the end of a cycle and place it in the dryer. (Cohen Dep. at 42:3-14; 100:16-20.)
2. Plaintiff Cohen noticed that her Duet washer has an odor if she does not leave the door to the washing machine open. (*Id.* at 42:13-14; 99:9-12, 23-25.)
3. Plaintiff Cohen first noticed an odor in the machine, an odor in the laundry and mold growth within a year after she purchased her machine. (*Id.* at 99:15-19.)

L. Plaintiff Pramila Gardner (Texas)

1. Plaintiff Gardner first noticed visible mold and odors in her Duet around May 2006. (Gardner Resp. to Interrog. No. 2; Gardner Dep. at 100:4-15.) She noticed an odor before she noticed any visible mold or mildew. (Gardner Dep. at 102:9-11.) According to Plaintiff Gardner, she could smell the odor in the front of the house and when she was in "open space." (*Id.* at 102:16-25.)

2. Plaintiff Gardner noticed visible “dark green” or “black-brown” mold in the door seal and “gunk” in her detergent dispenser. (*Id.* at 104:1-105:17.)
3. Plaintiff Gardner has noticed an odor on her towels after they get wet from drying off. (*Id.* at 106:16-107:14.)
4. Plaintiff Gardner occasionally observed standing water in the drum of her Duet and would run an extra drain cycle to get rid of it. (*Id.* at 130:11-25.)

M. Plaintiff Jeff Glennon (New York)

1. Plaintiff Glennon noticed a smell in his first Duet washer “[r]oughly . . . about month and a half” to two months after purchasing the machine. (Glennon Dep. at 30:2-4; 91:13-17.)
2. Plaintiff Glennon has noticed a “wet, moldy” odor in his clothing and towels, with the heavier items, such as towels and jeans “tend[ing] to smell the worst and retain the smell.” For this reason, he takes those items to the Laundromat approximately once a week and has done so since owning the first Duet washer and does so with the second Duet washer as well. (*Id.* at 92:5-13; 157:3-158:25.)
3. Plaintiff Glennon noticed black, moldy stains on the door seal, on the front door, on the bottom of the glass on the front door, and “behind the gasket” in his second Duet washer. (*Id.* at 127:13-20.)
4. Plaintiff Glennon’s mudroom (where he keeps the Duet washer) and kitchen (next to the mudroom) smell like mold or mildew. (*Id.* at 159:6-17.) The odor in the kitchen began several months after using the first Duet washer. (*Id.* at 160:7-9.)

N. Plaintiff Karen Hollander (Florida)

1. Plaintiff Hollander has noticed mold on and underneath the rubber door seal and on the plastic portion where the water drains. (Hollander Dep. at 77:18-78:25; 135:6-136:12.) She first noticed the mold on the door seal approximately four or five months after she purchased the machine. (*Id.* at 134:16-24.)
2. Plaintiff Hollander’s clothing have a “terrible” mildewy odor. (Hollander Dep. at 78:2; 134:8-15.)
3. There is a moldy odor emanating from the machine, which “always” smells when she opens the door after running a load of wash. The odor is noticeable in the laundry room and a few feet from the laundry rooms. (*Id.* at 134:10-11; 136:20-137:8; 151:2-6; 163:7-24.)

4. The mold problems have gotten progressively worse since Plaintiff Hollander first noticed them. (*Id.* at 149:11-21.)
5. Plaintiff Hollander has never noticed any mold stains on her clothing. (*Id.* at 150:24-151:1.)

O. Plaintiff Rebecca Nordan (Maryland)

1. Plaintiff Nordan first experienced mold problems in her Duet washer about four months after she purchased her machine. (Nordan Dep. at 155:11-15.)
2. Plaintiff Nordan has noticed mold in the door seal and detergent dispenser tray in her Duet washer. (*Id.* at 150:14-16; 162:10-17, 168:16-169:6.)
3. According to Plaintiff Nordan, her clothes have a “minimal” smell after being washed. (*Id.* at 171:23-24.)
4. Plaintiff Nordan has noticed a mold smell in her Duet washer, which she testified is a “pretty bad” smell. Her laundry room also smells, but to a lesser degree than her machine. (*Id.* at 170:7-22.)
5. Plaintiff Nordan has never noticed mold or mildew on her clothing or towels. (*Id.* at 158:2-9.)

P. Plaintiff Maggie O’Brien (Indiana)

1. Plaintiff O’Brien does not recall when she first began experiencing mold or odor problems with her Duet washer, but she first contacted Whirlpool in January 2006 to complain about the problems she was experiencing with her machine. (O’Brien Dep. at 49:15-50:1; 76:19-77:1.)
2. Plaintiff O’Brien has noticed mold stains on the door seal and in her detergent dispenser drawer. (*Id.* 135:7-136:21; 142:1-7; 142:11-15.)
3. Plaintiff O’Brien’s machine has an odor, which is noticeable when she opens the door to the washer. (*Id.* at 113:14-23.) However, when she runs a weekly maintenance cycle in her machine, the odor is not quite as strong and is not noticeable in the laundry room. Plaintiff O’Brien further stated that her washer “smells fine” after she runs a maintenance cycle and leaves the door open. (*Id.* at 152:1-10)
4. Plaintiff O’Brien has noticed odor in her laundry when she leaves it in the machine overnight, but it goes away when she re-washes the clothing. (*Id.* at 139:1-14.)
5. Plaintiff O’Brien has never noticed mold growing on clothing washer in her Duet washer. (*Id.* at 152:11-13.)

Q. Plaintiff Victoria Poulsen and her husband Henrik Poulsen (California)

1. Plaintiff Poulsen noticed an odor on items washed in her Duet machine, which she described as a “sour[], rubbery smell.” She has never seen any mold in her Duet HT. (V. Poulsen Dep. at 101:15-25; 153:9-154:6.)
2. Contrary to Plaintiff Poulsen’s testimony, Mr. Poulsen has not noticed any odor. (H. Poulsen Dep. at 35:1-9; 87:14-19.)

R. Plaintiff Sonja Sandholm-Pound (New Jersey)

1. Plaintiff Sandholm-Pound first started experiencing “mold problems” in her first Duet washer—namely, that the towels and clothes washed in the machine would smell and she noticed a mold buildup in the door seal and detergent tray—in April 2008. (Sandholm-Pound Dep. at 259:6-12; 260:24-261:19.) Although she was not positive that the problems began in April 2008, she did not remember experiencing any problems between the time she purchased the first machine in May 2004 and April 2008. (*Id.* at 163:1-17.)
2. As for her second Duet washer, Plaintiff Sandholm-Pound first noticed a mold buildup in approximately September 2005, when she pulled socks out of the door seal and saw “dark blackish-gray” mold on the socks and on the underneath portion of the door seal. (*Id.* at 156:20-157:18; 196:17-198:5; 200:15-18.) At that time, she noticed a musty smell in the door seal. (*Id.* at 198:9-13.) She has also noticed an odor in towels washed in her second Duet machine, although she does not recall when the odors began. (*Id.* at 161:6-10; 196:25-197:2; 214:12-13; 218:18-219:3.) Plaintiff Sandholm-Pound has also observed mold underneath the detergent dispenser. (*Id.* at 215:15-23.)
3. As for her third Duet washer, Plaintiff Sandholm-Pound has noticed mold growing in the door seal and detergent dispenser tray, that her towels and clothing have an odor, and that her towels have become discolored. (*Id.* at 295:1-3; 299:17-25; 305:20-25.) She does not recall when she first noticed mold and moldy odors, although it was not “[i]mmediately after purchase” but was before April 30, 2009. (*Id.* at 298:23-7; 303:4-6.)
4. Plaintiff Sandholm-Pound has never noticed a mold smell coming from any of her Duet washers. The odor is only in the clothing and towels washed in the machine. (*Id.* at 260:23-25; 261:20-262:8; 305:8-19.)
5. Plaintiff Sandholm-Pound’s towels have also changed from a bright white to a “dingy” brownish-gray color, which she attributes to the mold. (*Id.* at 308:2-11.) This has occurred with both her second and third Duet washers. (*Id.* at 299:17-20; 306:1-12.)

S. Plaintiff Shannon Schaeffer (California)

1. Plaintiff Schaeffer does not recall when she first noticed mold or odor in her machine. (Schaeffer Dep. at 145:4-8.) Plaintiff believes she noticed a “foul smell” before she noticed any mold in the machine. (*Id.* at 145:15-22.) Over time, the smell “seemed to get more constant and more pungent.” (*Id.* at 165:19-20.) Her washer still smells today. (*Id.* at 166:16-19.)
2. Plaintiff Schaeffer discovered “severe black slimy residue around the gasket” but could not recall when this discovery was made. (*Id.* at 104:1-4; 161:17-24; 207:3.) Plaintiff also noticed “green slimy residue” in the detergent dispenser at the back of the dispenser drawer. (*Id.* at 102:9-11; 103:3-13.)
3. Plaintiff Schaeffer’s towels and baby clothes “occasionally” smell, although she could not say how frequently. (*Id.* at 200:17-25; 201:6-10.)
4. Plaintiff Schaeffer has noticed standing water in the drum of her machine, but could not recall how much water or how many times she noticed it. (*Id.* at 206:2-12). She also noticed standing water in the trap of her machine when she “removed the trap.” (*Id.* at 205:14-17.)
5. Plaintiff Schaeffer has noticed that some of her white clothing have turned shades of beige colors, which she believes might be attributable to the mold problem. (*Id.* at 198:14-199:19.)

T. Plaintiff Tracie Snyder (North Carolina)

1. Plaintiff Snyder first noticed a moldy odor within the first year after purchase of her machine. (Snyder Dep. at 133:1-11.)
2. Plaintiff Snyder saw mold in the area of her machine where the detergent comes out and in the door gasket when she pulled back its rim. (*Id.* at 30:17-31:12; 170:11-21.) She does not recall seeing mold until the summer of 2007, approximately two years after purchase. (*Id.* at 30:14-16.)
3. Plaintiff Snyder claims her clothes and towels do not “smell completely clean.” (*Id.* at 173:1-2.) When she uses OdoBan with the laundry, the odor is not as strong because OdoBan has a strong eucalyptus smell. (*Id.* at 44:15-22.)
4. Plaintiff Snyder’s laundry room has an odor, although no other room in her house smells. (*Id.* at 173:13-16.)

U. Plaintiff Andrea Strong (Arizona)

1. Plaintiff Strong first noticed a musty smell in her washing machine in June 2007. (Strong Dep. at 81:24-82:7.) She testified that her laundry room smells and that the odor “permeates out the door” to the hallway. (*Id.* at 99:5-19.) However, she does not close the door to the laundry room. (*Id.* at 99:20-22.)
2. In June 2007, Plaintiff Strong also noticed mold spots around the visible plastic tub and possibly on the rubber door seal. (*Id.* at 81:8-23.) There was also a “brown smudge” around the metal drum, but she was “not sure if it was mold.” (*Id.* at 85:11-20.)
3. Plaintiff Strong has never noticed any mold smell on her clothing (*id.* at 90:23-91:6; 152:1-4; 152:15-19; 153:5-7), and she has never noticed any mold stains on her clothing (*id.* at 98:24-99:2).
4. At some point, Plaintiff Strong noticed a moldy smell on her towels. (*Id.* at 90:23-91:3.)
5. Plaintiff Strong testified that the problem has not gotten better or worse over time, but it is a consistent problem. (*Id.* at 97:5-16.)

V. Plaintiff Phillip Torf (Illinois)

1. Plaintiff Torf noticed mold on the rubber door seal of his Duet Sport approximately one year after he purchased it. (Torf Dep. at 112:21-24; 113:1-4.) He has not seen mold on any other part of his Duet Sport. (*Id.* 114:1-15.)
2. Plaintiff Torf does not “smell any odor specifically coming from [the] washer” or from the clothes coming out of the washer. (*Id.* at 74:12-17.) It is only when clothes have been left in the machine for an extended period of time or overnight that he would notice a “moldy smell a bit.” (*Id.* at 139:1-23; 144:21-146:7.)
3. Plaintiff Torf has never seen any mold on his laundered items. (*Id.* at 160:3-11.)

W. Plaintiff Jane Werman (Illinois)

1. Although Plaintiff Werman’s Duet washing machine was delivered in August 2004, she did not use the machine until November of 2004. (Werman Dep. at 58:4-13; 61:8-13.) Within a couple of months after using the machine, she noticed a “mildew smell” coming from the washing machine. (*Id.* at 61:14-62:11; *id.* at 74:15-16.) The mildew smell can be noticed in the laundry room and in the hallway outside the laundry

room door, but it is not noticeable anywhere else in the house. (*Id.* at 216:5-24.)

2. Plaintiff Werman testified that her clothes and towels “always” smell of mildew, although the odor is not noticeable when the clothing is dry. She attributes a lack of smell to her use of drier sheets. (*Id.* at 69:3-21; 70:19-71:1; 217:13-22.)
3. Plaintiff Werman’s “biggest problem” is that her towels smell like mildew when they become wet. (*Id.* at 69:20-23; 152:3-6; 154:16-20.)
4. Sometime in the spring/summer of 2005, Plaintiff Werman pulled back the door seal to her Duet and noticed “thick, brown mold.” (*Id.* at 77:7-10; 78:1-3.) Plaintiff also noticed mold growths and residues on the outer door seal that was visible when you open the washer door. (*Id.* at 222:18-223:11.)
5. Plaintiff Werman has never seen mold spots or discoloration on any of her clothing. (*Id.* at 225:17-226:2.)

X. Owners Ken and Lorna Benson (Michigan)

1. Mr. and Ms. Benson have not observed any mold or mildew in their Duet washing machine. (Benson Decl. ¶ 6.)
2. Their washer has never smelled of mold or mildew, nor have the clothes, towels, or other items washed in their machine ever smelled of mold or mildew. (*Id.* ¶ 7.)

Y. Owner Ericka Englert (Colorado)

1. Ms. Englert has never observed or smelled any mold or mildew in her Duet washer. (Englert Decl. at ¶¶ 7-8.)
2. Several weeks after Ms. Englert and her husband began using the Duet, it developed an unpleasant odor that she attributed to washing her son’s cloth diapers. (*Id.* ¶ 7.) Her monthly maintenance cycle has prevented the odor from reoccurring. (*Id.*).

Z. Owner Shirley Hand (Colorado)

1. Ms. Hand has never observed any mold or mildew on the door seal or anywhere else of her Duet washer. (Hand Decl. ¶ 8.)
2. Ms. Hand’s Duet washer has never smelled of mold or mildew, nor have the clothes washed in her machine ever smelled of mold or mildew. (*Id.* ¶ 9.)

AA. Owner Christine Piersol

1. Christine Piersol has never observed any mold or mildew in her Duet washer. (C. Piersol Decl. ¶ 8.)
2. Ms. Piersol's Duet washer has never smelled of mold or mildew, nor have the clothes, towels, or other items washed in her machine ever smelled of mold or mildew. (*Id.* ¶ 9.)

BB. Owner Lauren Piersol (Florida)

1. Lauren Piersol has not experienced any smell of mold or mildew on any clothing, towels, or other items washed in her Duet washer. (L. Piersol Decl. ¶ 12.)
2. Ms. Piersol once noticed that a mildewy odor developed in the machine after she forgot to run the Clean Washer cycle. The smell went away after running the Clean Washer cycle twice. (*Id.* ¶ 11.)
3. Ms. Piersol has observed residues build up in her detergent dispenser if she does not regularly clean it. She has never observed any mold or mildew anywhere else in my Duet washer, including on the door seal. (*Id.* ¶ 13.)

CC. Owner Janisa Tharp (Colorado)

1. Ms. Tharp has never observed any mold or mildew in her Duet Sport or smelled an unpleasant odor in her machine or the items washed in it. (Tharp Decl. at ¶¶ 6-7.)

V. THE DIFFERENT STEPS TAKEN TO ATTEMPT TO CLEAN OR MITIGATE THE MOLD OR ODOR PROBLEMS IN PLAINTIFFS' OR OWNERS' WASHERS

A. Plaintiff Trina Allison (Ohio)

1. Sometime within the first year after purchase, a Whirlpool representative recommended that Plaintiff Allison try Affresh. (Allison Dep. at 27:24-28:2.) Plaintiff Allison has subsequently "used it every month since [she] got the recommendation." (*Id.* at 32:1-11.) She runs Affresh "in . . . an empty machine" on the Heavy Duty cycle. (*Id.*) According to Plaintiff Allison, Affresh "will work for about a day or two and then we're back to square one" and is "not effective." (*Id.* at 32:13-14; 98:17-19.) However, she has never tried running three Affresh tablets in a row and has never seen the instruction to do so. (*Id.* at 32:15-25.)

2. Plaintiff runs Affresh through her machine at the beginning of the month, and then “a few weeks later,” she runs a hot water cycle with bleach on the sanitary cycle. (*Id.* at 55:21-56:19; 143:3-6.)
3. In response to a Whirlpool recommendation, Plaintiff Allison looks under the rubber door seal for any foreign objects after each wash. (*Id.* at 33:1-4.)
4. Once a month, Plaintiff Allison wipes down the door seal, “around the edges” of the door, the plastic tub, the detergent dispenser, and the interior side of the door hinge with Clorox Wipes. (*Id.* at 34:3-13; 36:11-14; 57:20-23; 59:21-60:8.)

B. Plaintiff Gina Glazer (Ohio)

1. Plaintiff Glazer testified that she switched from regular detergent to Tide HE detergent after January 2008, when she received an e-mail from Whirlpool instructing her to use only HE detergent. (Glazer Dep. at 126:21-24, 127:19-22; 185:18-21; 194:6-8.) However, Dr. Paul Taylor’s inspection of Plaintiff’s washer and laundry room on August 26, 2009 revealed that the two laundry detergents in Plaintiff’s cupboards were both non-HE detergents. (Expert Report of Paul M. Taylor ¶¶ 10-11 & fig.2.)
2. Plaintiff Glazer testified that she wipes the door seal and the well area underneath the door seal with paper towels on approximately a weekly basis. (*Id.* at 136:17-24.) However, the August 26, 2009 inspection of Plaintiff Glazer’s machine by Dr. Taylor revealed that Plaintiff had not cleaned the door seal area in some time. (Expert Report of Paul M. Taylor ¶¶ 15-16, figs.4-5.)
3. Plaintiff Glazer does not use, and has never used, the Clean Washer cycle on her Duet Sport, as recommended in her Use and Care Guide. (*Id.* 124:20-25.) She has never used chlorine bleach to clean out the inside of her machine, including after Whirlpool e-mailed her instructions recommending that she do so. (*Id.* at 131:2-8.) She has also never tried running the Clean Washer cycle with an Affresh tablet, even though Whirlpool suggested to Plaintiff Glazer that she use Affresh. (*Id.* at 140:18-23.) Plaintiff Glazer refuses to use Affresh because she does not “feel I should have to buy another product from Whirlpool or recommended by Whirlpool” and because she had “no way of knowing if it was just going to cover the smell or it was actually going to clean the washing machine.” (*Id.* at 141:2-9.)
4. After January 2008, Plaintiff Glazer was more “aware” of removing wet items from the washer after the machine stopped running. (*Id.* at 193:11-23.)

C. Owner Megan Connell (Ohio)

1. Ms. Connell began washing her towels on the Sanitary cycle after noticing a faint odor of mildew in the towels, and she no longer notices an odor. (Connell Decl. ¶ 11.)

D. Owner Chris Dow (Ohio)

1. N/A

E. Owner Sandy Perry (Ohio)

1. N/A

F. Owner Mark L. Rodio (Ohio)

1. After noticing some staining on his door seal from water collection, Mr. Rodio started leaving the door open and wiping down the door seal. He has not noticed further discoloration since beginning that practice. (Rodio Decl. ¶ 8.)

G. Owner Phyllis Yates (Ohio)

1. N/A

H. Plaintiff Bonnie Beierschmitt (New Jersey)

1. Starting approximately three months after purchase (after she noticed mold problems), Plaintiff Beierschmitt runs a cycle with hot water and bleach every other day. (Beierschmitt Dep. at 207:24-208:16; 208:17-209:1.) In addition to the hot water and bleach cycle, she also runs cycles with vinegar, Lysol and/or Affresh. (*Id.* at 210:3-19.) Plaintiff Beierschmitt runs these cycles before she puts her clothing in the machine, which “certainly disguises” the odor problem and makes her clothes smell “a little fresher.” (*Id.* at 209:20-201:10.)
2. Plaintiff Beierschmitt first heard of Affresh in May 2008, after visiting Whirlpool’s website. (*Id.* at 214:7-215:2.) Plaintiff Beierschmitt has used Affresh approximately ten times in her Duet washer and has bought approximately four separate packages of Affresh. (*Id.* at 215:3-216:2.) Running Affresh through the machine would have an effect on the odor for one or two loads and then the smell would return. (*Id.* at 218:10-16.)
3. Plaintiff Beierschmitt wipes the rubber door seal and the door with a towel after she is finished with the laundry. She also cleans the dispenser drawer in her Duet washer with warm water and dish soap approximately twice a month. (*Id.* at 210:20-212:15.)

4. Plaintiff Beierschmitt uses Fantastic to clean the mold growth on her washer's door seal. (*Id.* at 207:7-12; 212:16-13.) She also tried removing the mold stains from her door seal using a combination of baking soda and water, but it was not effective. (*Id.* at 277:24-278:18.)
5. Plaintiff Beierschmitt believes that leaving her washer door open between uses "sometimes" helps alleviate the problem. (*Id.* at 285:10-23.)

I. Plaintiff Sylvia Bicknell (Florida)

1. Plaintiff Bicknell runs a monthly maintenance cycle using bleach, although she admitted that she may not have always run a monthly cleaning cycle with bleach. (Bicknell Dep. at 114:4-12; 163:20-23.) Running items through the Sanitary cycle in her machine "pretty much eliminates" the smell in those items. (*Id.* at 160:18-161:13.)
2. Plaintiff Bicknell tried using vinegar in her washer on several occasions, but it did not have a noticeable effect on the odor in her machine. (*Id.* at 120:24-121:8.)
3. Plaintiff Bicknell runs two cycles for each load of clothing she washes, noting that running the additional cycle helps reduce the smell in the clothing. (*Id.* at 101:11-14.)
4. Plaintiff Bicknell cleans the door seal, dispenser drawer and plexi-glass on her machine after virtually every use of her machine. (*Id.* at 114:13-17; 115:24-116:25.) She also wipes black specks off the door seal in her Duet washer, but that has no effect on the smell in her machine. (*Id.* at 141:1-14.)
5. Plaintiff Bicknell leaves the dispenser drawer open between uses, but she has never cleaned out the detergent dispenser tray housing. (*Id.* at 115:25-116:12; 117:14-118:3.)
6. Plaintiff Bicknell testified that all of her remediation and maintenance efforts reduce the odors, although it never eliminates them entirely. (*Id.* at 148:16-149:23.)

J. Plaintiff Paula Call (California)

1. Plaintiff Call tried to clean her machine by running a bleach and water cycle about three times. She testified that the bleach only masked the odor and did not make it go away. (Call Dep. at 259:10-14; 265:24-266:15, 296:8-22.)
2. Plaintiff Call used a powder washer cleaner for a week in March 2005 and claims that she "didn't notice any difference, so [she] didn't do it again." (*Id.* at 260:3-22; 263:9-23.)

3. Plaintiff Call tried a baking soda and water mixture to clean her machine in April 2005, but claims it did not work either. (*Id.* at 267:13-23.)
4. Plaintiff Call testified that she sprayed washed items with deodorizer so they “didn’t smell as bad.” (*Id.* at 305:9-306:10.)
5. Plaintiff Call leaves the door open between uses and cleans the door seal with water and bleach once per week. (*Id.* at 269:20-270:12; 271:5-17.)

K. Plaintiff Mara Cohen (New York)

1. Plaintiff Cohen testified that she “didn’t buy a machine that requires monthly maintenance,” so she does not “spend [her] time maintaining” her Duet washer. (Cohen Dep. at 107:11-14.)
2. Since receiving Whirlpool’s recommendation to leave the door open, Plaintiff Cohen has been “very careful not to shut the door,” and her housecleaner and babysitter all know to leave the door open. (*Id.* at 75:8-21; 92:9-10.) Leaving the door open does decrease the odor in the machine and makes it “better” and “less noticeable.” (*Id.* at 111:1-16.)
3. Plaintiff Cohen’s clothing will also not smell if she removes the laundry immediately after she has washed it. (*Id.* at 159:2-6.)
4. Plaintiff Cohen refuses to run a monthly maintenance cycle with hot water and bleach, despite being advised to do so by Whirlpool and the Willman’s service technician. (Cohen Dep. at 79:7-21.) She has never tried just running an empty cycle with hot water. (*Id.* at 110:6-9.)
5. Plaintiff Cohen believes she used Affresh two times: the first time, she ran three Affresh tablets in one cycle, and she believes she used it “again.” However, she stopped using Affresh because it did not work, even temporarily. (*Id.* at 108:2-110:5.)
6. Plaintiff Cohen has wiped off the door seal, but does not do it on a regular basis. (*Id.* at 107:3-10, 21-24.)

L. Plaintiff Pramila Gardner (Texas)

1. Plaintiff Gardner has cleaned the door seal, wiped down the seal and interior, and cleaned the detergent dispenser. (Gardner Dep. at 71:9-74:9.) She tried scrubbing the door seal with a wiry sponge and Tilex but gave up when it did not work. (*Id.* at 87:4-88:8.)
2. Plaintiff Gardner also started washing clothes on only hot or warm water because she thought cold water might contribute to the problem. (*Id.* at 127:21-128:19.)

3. Plaintiff Gardner started leaving the door of the Duet open after she noticed an odor. While it was her husband who suggested it, she later read updated instructions on Whirlpool's website stating that the door should be left open between loads. (*Id.* at 49:11-21, 117:23-118:1.)
4. Plaintiff Gardner has heard of Affresh and Tide Washer Cleaner, but has not tried them or any other washing machine cleaner. (*Id.* at 90:3-19.) She ran bleach cycles on the Heavy Duty cycle to clean her machine, as recommended on Whirlpool's website. (*Id.* at 91:7-92:17.) She initially ran this cycle three times in May 2006, and then on a monthly basis. (*Id.* at 121:2-18.)

M. Plaintiff Jeff Glennon (New York)

1. In response to Whirlpool recommendations, Plaintiff Glennon ran hot water cycle with bleach "[a]t least once a week" and tried using Affresh and other cleaning products. (Glennon Dep. at 29:24-30:10; 105:2-106:1; 125:14-22.) Plaintiff Glennon sometimes used Affresh three times a day. (*Id.* at 105:22.)
2. "[P]er Whirlpool's recommendations," Plaintiff Glennon tried cleaning the gasket and door using a rag with a bleach solution (*Id.* at 127:24-128:1.)
3. According to Plaintiff Glennon, none of these recommendations helped solved the odor problem "at all." (*Id.* at 30:11-16; 105:15-16; 105:23-24; 106:11-12; 119:11-25; 125:23-24; 128:2-3.)
4. Plaintiff Glennon also tried running white vinegar and a tablespoon of baking soda through the washer on two occasions, but it did not work and made his clothes smell like vinegar. (*Id.* at 120:14-25.)
5. Plaintiff Glennon also adjusted the baffle on the detergent dispenser and used an extra rinse to see if that would alleviate the odor problem, as recommended by Whirlpool. (*Id.* at 139:2-10.)

N. Plaintiff Karen Hollander (New York)

1. In response to Whirlpool's recommendation, Plaintiff Hollander tried using Affresh to clean her Duet washer on five or six occasions over a period of thirteen months, but "it didn't work" and had no effect on the mold problems. (Hollander Dep. at 120:15-121:12.)
2. Plaintiff Hollander also tried running a cycle with no clothing and with Clorox bleach on the Normal cycle. Plaintiff Hollander first testified that she ran the cycle approximately eight times, but then testified that she ran the cycle about once a month since the third or fourth month after purchasing her machine. (*Id.* at 123:11-125:23.) Plaintiff Hollander also

testified that she still “periodically” runs this empty cycle with bleach. (*Id.* at 171:11-18.)

3. According to Plaintiff Hollander, none of her cleaning efforts have alleviated the mold problems. (*Id.* at 140:3-6.)

O. Plaintiff Rebecca Nordan (Maryland)

1. Plaintiff Nordan followed Whirlpool’s recommendation to run empty cycles with hot water and bleach and ran the cycle approximately once a month. However, Plaintiff thought the bleach made the odor worse. (Nordan Dep. at 53:8-15; 54:25-55:24.)
2. Upon Whirlpool’s recommendations, Plaintiff Nordan wiped the gasket each time she did laundry, scrubbed her dispenser approximately every two months, left the door open when the washer was not in use, and ran empty cycles with dishwasher detergent. (*Id.* at 34:21-35:20; 37:3-24; 59:25-60:6; 168:16-169:6; 64:12-18; 151:23-153:1.) She also tried cleaning her machine with vinegar. (*Id.* at 153:7-22.)
3. According to Plaintiff Nordan, none of these measures resolved her mold problems. (*Id.* at 153:15-16.)
4. Beginning in 2007, Plaintiff Nordan began running an empty cycle with three Affresh tablets on a monthly basis. (*Id.* at 56:1-10; 57:17-58:16.) Plaintiff Nordan stated that using Affresh has a “minimal” effect on the problem and generally makes her washer smell better for “a couple of days.” (*Id.* at 150:20-151:10.)

P. Plaintiff Maggie O’Brien (Indiana)

1. At the recommendation of a service technician in January 2006, Plaintiff O’Brien reduced the amount of HE detergent and stopped using fabric softener. (O’Brien Dep. at 27:1-9.) The service technician also told her to keep the door open. (*Id.* at 29:3-4.)
2. At the recommendation of Whirlpool in September 2007, Plaintiff O’Brien believes she began running a Clean Washer cycle with bleach and started leaving the door of her machine open. (*Id.* at 26:10-20.)
3. Plaintiff O’Brien’s Duet washer smell fine when she runs a weekly maintenance cycle and leaves the door open. (*Id.* at 152:1-10.) If she does not run a weekly or bi-weekly maintenance cycle in her machine, her laundry room will smell of mold when the washer door is open. (*Id.* at 114:8-16.)
4. Plaintiff O’Brien’s laundry does not smell if she transfers it to the dryer after the wash is complete. The moldy smell will only occur if she leaves

the laundry in her machine for an extended period of time. (*Id.* at 152:14-153:8.)

5. Plaintiff O'Brien is able to control the growth of new stains on the door seal by wiping off the door seal with water and bleach. (*Id.* at 142:24-143:18.) Plaintiff O'Brien is also able to stop the mold and odor from recurring in her dispenser drawer or door seal by running a weekly cycle with bleach. (*Id.* at 155:4-14.)
6. Upon receiving a free sample of Affresh from Whirlpool, Plaintiff O'Brien tried it once but thought it had only a "minor" effect. (*Id.* at 29:18-30:13.)

Q. Plaintiff Victoria Poulsen and her husband Henrik Poulsen (California)

1. Plaintiff Poulsen testified that they maintained their Duet HT after mold problems developed by keeping the "machine as clean as possible," leaving the door of the Duet HT open, discontinuing the use of fabric softener, and using less detergent. (V. Poulsen Dep. at 160:23-161:9.)
2. Plaintiff Poulsen tried Affresh and thought it worked, but ultimately decided it was not worth it. (*Id.* at 165:10-16.)
3. Plaintiff Poulsen testified that she ran a bleach cycle to clean the machine only once because she thought it did not "do any good" and was a "waste of money." (*Id.* at 161:10-162:19.)

R. Plaintiff Sonja Sandholm-Pound (New Jersey)

1. In response to a service technician's recommendations (likely in September 2005), Plaintiff Sandholm-Pound started—in both her first and second Duet washers—leaving the washer door open between uses and started running an empty cycle with bleach. (Sandholm-Pound Dep. at 153:1-18; 159:5-11; 179:10-18; 181:20-182:1; 265:1-6.)
2. In the first Duet washer, Plaintiff Sandholm-Pound advises her renters to run the bleach cycle once a week, but she runs the bleach cycle "probably more than once a month." (*Id.* at 161:15-162:7.) Plaintiff Sandholm-Pound has never used any washing machine cleaner, including Affresh, in her first Duet machine. (*Id.* at 158:9-159:4; 182:2-4.)
3. With respect to her second Duet washer, Plaintiff Sandholm-Pound ran the cleaning cycle with bleach twice a week, as recommended by the technician, for "awhile." (*Id.* at 210:5-7; 211:12-14.) Plaintiff stopped running the bleach cycle twice a week after she found that "it wasn't making any difference in the smell" of her clothes, although she could not recall if she stopped running the cycle altogether or ran the cycle only once per week. (*Id.* at 211:22-212:11.)

4. Plaintiff Sandholm-Pound learned about Affresh when she was looking to replace her second Duet washing machine, and she tried using Affresh tablets in her second machine to see if it would help with the odor and mold buildup. (*Id.* at 180:7-22.) Aside from using Affresh shortly before replacing the machine, Plaintiff has not used any other washer cleaning products in her second Duet. (*Id.* at 181:13-19.)
5. Since developing problems in her third machine, Plaintiff Sandholm-Pound has continued to run Affresh in her third washer. (*Id.* at 302:3-4.) She has not used bleach as a method of sanitizing her machine. (*Id.* at 304:7-13.)

S. Plaintiff Shannon Schaeffer (California)

1. Plaintiff Schaeffer did not initially do anything to mitigate the odor in her machine, although she cannot recall when she first attempted to remediate the odor (possibly not doing anything until four months prior to the deposition). (Schaeffer Dep. at 147:12-149:10; 164:1-4.) At some point, she conducted research on the Internet to find solutions. (*Id.* 148:2-4.)
2. Plaintiff Schaeffer leaves the washer door open “when she can,” which she began in the “last couple of years” after discovering it might help with the mold and odor problem. (*Id.* at 67:7-68:4.) However, Plaintiff Schaeffer does not know if she has been leaving the door to her machine open for months or for years. (*Id.* at 149:2-150:13.)
3. Plaintiff Schaeffer tried running an empty cycle with bleach and hot water to help remediate the mold problem. (*Id.* at 175:8-20.) She only attempted the bleach cycle once because she thought it was not “worth doing again” based on her belief that it was not effective after one attempt. (*Id.* at 176:1-22.) According to Plaintiff Schaeffer, the use of bleach only briefly made a difference, in that the “smell was not as foul” upon opening the door but the odor returned “very quickly.” (*Id.* at 175:19-24.)
4. Plaintiff Schaeffer tried Affresh in January 2009 after receiving several free packages of Affresh from Cagle’s. (*Id.* at 121:16-25; 125:1-7; 190:1-3; 191:7-9.) The first time she used two or three tablets at once. Plaintiff “believes” she used Affresh again, although she could not recall when she tried it again and believes she only used it a “few” times. Plaintiff does not use Affresh on a monthly or weekly basis. (*Id.* at 191:13-15; 192:9-193:24.) Plaintiff Schaeffer believes that Affresh was only “a very temporary fix.” (*Id.* at 192:5-8.)
5. Plaintiff Schaeffer has not tried any other type of washer cleaner for her machine. (*Id.* at 192:22-25; 194:20-25.)

6. Plaintiff Schaeffer started changing the water temperature to hot “on occasion,” tried using the Whitest Whites cycle more often, and stopped using liquid fabric softener. (*Id.* at 86:14-25; 106:20-23; 107:16-18.)
7. Plaintiff Schaeffer started wiping down the seal and checking the seal for foreign objects after she experienced mold problems, although she could not recall when she started. (*Id.* at 99:4-24.) Specifically, Plaintiff wipes the underneath side of the door seal with a paper towel on “occasion.” (*Id.* at 119:15-120:10.)
8. Plaintiff Schaeffer “[p]eriodically” washes the detergent dispenser cup with bleach and wipes down the receptacle for the detergent dispenser. (*Id.* at 103:16-104:25.)
9. On two occasions, Plaintiff Schaeffer cleaned the “plastic trap” by removing the front panel. She cleaned all the pieces in the trap with bleach and cleaned inside the receptacle. (*Id.* at 138:7-16.)

T. Plaintiff Tracie Snyder (North Carolina)

1. Plaintiff Snyder started leaving the door open at the suggestion of Plaza Appliance Mart, which she contacted about her mold issues approximately one year after purchase. (Snyder Dep. at 27:14-28:6.)
2. Approximately two years after she purchased her machine and one year after she first observed moldy odors, at the suggestion of the extended warranty service company, Plaintiff Snyder began running a diluted bleach solution through the machine to clean it. (*Id.* at 144:11-145:11.)
3. Approximately three years after she purchased her machine, Plaintiff Snyder began using OdoBan in her laundry to make mask the odor. (*Id.* at 145:12-16.)
4. Plaintiff Snyder began running the Sanitary Cycle followed by Affresh about once a month. (*Id.* at 154:20-155:17.) She also began wiping the door seal with a diluted bleach solution and washing the bleach-soaked rag in the washer on the Sanitary Cycle. (*Id.* at 158:18-24.)
5. Plaintiff Snyder testified that running maintenance cycles and wiping the door seal initially reduced odor and visible mold for six weeks, but more recently, it has begun to return in three or four weeks. (*Id.* at 159:12-18; 170:22-171:17.)

U. Plaintiff Andrea Strong (Arizona)

1. Plaintiff Strong testified that, in response to Whirlpool’s suggestion, she purchased two packages of Affresh. (Strong Dep. at 89:10-12.) She ran both packages through her machine on one day, first one cycle with three

pucks and then three successive cycles, each of which had one puck. (*Id.* at 69:10-70:22.) Plaintiff Strong testified that the Affresh did not “fix the problem,” and she has not used it since. (*Id.* at 91:12-16; 90:18-22.)

2. Plaintiff Strong runs an empty cycle of hot water with one-third cup of Clorox bleach every one to two months. (*Id.* at 60:12-21; 72:20-21.) Every couple months, Plaintiff Strong also wipes the inside of the rubber door seal and the visible plastic area around the stainless steel drum with a damp cloth. (*Id.* at 66:13-18; 67:1-68:25.) According to Plaintiff Strong, this “doesn’t change anything, so it’s just a lingering problem basically.” (*Id.* at 94:14-18.)

V. Plaintiff Phillip Torf (Illinois)

1. After he noticed mold in his washer, Plaintiff Torf began cleaning the boot and door seal with a rag and bleach. (Torf Dep at 49:6-9; 113:5-22; 178:8-10.) He did not know, or follow, his Use and Care Guide’s instruction to wipe the gasket and boot with a dilution of bleach and water. (*Id.* at 154:4-11.)
2. Plaintiff Torf began running a monthly cleaning cycle with bleach and leaving the door open between cycles after being instructed to do so by an Abt service technician in 2008. (*Id.* at 45:8-23; 49:2-5.)
3. Plaintiff Torf has never heard of Affresh or any other products that could be used to clean the inside of a washing machine. (*Id.* at 110:6-12.)
4. Even though Plaintiff Torf’s door seal was replaced in 2008, his door seal still accumulates mold. (*Id.* at 48:6-18.)

W. Plaintiff Jane Werman (Illinois)

1. After noticing a mildew smell, Plaintiff Werman ran empty cycles with hot water and bleach approximately ten times over a period of four months. (Werman Dep. at 62:14-63:17.) The smell would decrease after running the cleaning cycle but “never went away totally.” (*Id.* at 64:13-16.) Plaintiff Werman stopped running the cycles of hot water and bleach because “it doesn’t do anything.” (*Id.* at 65:23-66:3.)
2. Since running the bleach cycles for four months, she has not tried anything else to clean the inside of the machine. Plaintiff Werman refused to try Affresh, despite the recommendation by an Abt representative to try it. (*Id.* at 74:20-75:22.) Although she purchased a box of Tide Washer Cleaner, she had not used it yet. (*Id.* at 106:23-107:10.)
3. During the same time period she ran the bleach cycles, Plaintiff Werman would also wipe the inside of the drum and the door seal with a rag (either dry or with water). (*Id.* at 72:10-73:9.)

4. Plaintiff Werman started leaving the door to her Duet washer open between uses. (*Id.* at 64:22-65:16.)
 5. After reading somewhere on the Internet that it would reduce the mildew odor and buildup, Plaintiff Werman switched from liquid detergent to HE powder detergent. (*Id.* at 66:8-18.) Plaintiff Werman has found that the powder detergent helps in that “by switching to powder there’s less time between when [the smell] gets really, really horrible.” (*Id.* at 68:14-20.)
 6. Plaintiff Werman also tried Charlie’s Laundry Soap powder detergent, which did not help. (*Id.* at 68:3-13.)
 7. Sometime after 2005, Plaintiff Werman also switched to using mostly cold-water washes, thinking that the “hot water was doing something to make it mildewed.” (*Id.* at 7-12; 90:10-17; 91:6-22.) She does not know whether the use of cold water has helped the odor go away. (*Id.* at 93:8-13.)
 8. Upon noticing mold on the door seal, Plaintiff Werman cleaned the door seal with a dry rag. (*Id.* at 77:7-10; 78:13-15.) She continued to clean the door seal every couple of loads with a dry rag (which takes a couple seconds) and has “sometimes” used a mixture of watered-down bleach on a q-tip. Some visible mold remains, but the mildew smell is less strong after she cleans it. (*Id.* at 78:8-80:2.)
- X. Owners Ken and Lorna Benson (Michigan)
1. N/A
- Y. Owner Ericka Englert (Colorado)
1. Ms. Englert runs a monthly clean washer cycle with bleach. That practice has effectively kept the unpleasant odor she associated with her son’s diapers from returning. (Englert Decl. ¶ 7.)
- Z. Owner Shirley Hand (Colorado)
1. N/A
- AA. Owner Christine Piersol
1. N/A
- BB. Owner Lauren Piersol (Florida)
1. Lauren Piersol once forgot to run her monthly clean washer cycle and a mildewy odor developed in the machine. To remove the odor, she ran the

Clean Washer cycle twice and the smell went away. (L. Piersol Decl. ¶ 11.)

CC. Owner Janisa Tharp (Colorado)

1. N/A

VI. THE DIFFERENT REPAIRS (IF ANY) PERFORMED ON PLAINTIFFS' WASHERS

A. Plaintiff Trina Allison (Ohio)

1. Sometime within the first year, Plaintiff Allison had a service technician come to her house for the odor and mold problems. Plaintiff Allison cannot recall if she arranged for service through Whirlpool or through hhgregg, with whom she purchased her five-year warranty. (Allison Dep. at 31:2-5; 111:16-20.)
2. The technician advised Plaintiff Allison to keep the washer door open between cycles, "to use the Affresh, run Clorox through the machine, and wipe it down monthly." (*Id.* at 28:20-25; 46:14-16; 47:3-7; 202:11-15.) The technician also explained to Plaintiff Allison that the mold problems are due to "the front-loaders hav[ing] been designed with a seal that is extremely too tight" and, therefore, "have a problem with air ventilating through them." (*Id.* at 63:9-19.) Despite the technician's instruction to leave the door open between cycles, Plaintiff Allison still leaves the door shut. (*Id.* at 63:18-19.)

B. Plaintiff Gina Glazer (Ohio)

1. Plaintiff Glazer declined to have her Duet Sport washer repaired because she would have to "pay for it." (Glazer Dep. at 156:1-4; 162:19-21.)

C. Owner Megan Connell (Ohio)

1. Ms. Connell's Duet has never malfunctioned or required a repair or service call of any kind. (Connell Decl. ¶ 12.)

D. Owner Chris Dow (Ohio)

1. Ms. Dow's Duet has never malfunctioned or required a repair or service call of any kind. (Dow Decl. ¶ 12.)

E. Owner Sandy Perry (Ohio)

1. Ms. Perry's Duet has never malfunctioned or required a repair or service call of any kind. (Perry Decl. ¶ 12.)

F. Owner Mark L. Rodio (Ohio)

1. Mr. Rodio had only his Duet serviced to address problems with his electronic control board and door latch during his extended warranty period. (Rodio Decl ¶ 7.)

G. Owner Phyllis Yates (Ohio)

1. Ms. Yates's Duet Sport has never malfunctioned or required a repair or service call of any kind. (Yates Decl. ¶ 14.)

H. Plaintiff Bonnie Beierschmitt (New Jersey)

1. A technician came to Plaintiff Beierschmitt's home shortly after Plaintiff Beierschmitt contacted Whirlpool (sometime in 2005) and cleaned the sump filter in her machine. (Beierschmitt Dep. at 251:11-23; 252:22-253:2; 254:7-255:10.) He also advised Plaintiff to stop using liquid fabric softener. (*Id.* at 197:10-24.) Plaintiff Beierschmitt's husband has cleaned the sump filter about five or six times since the repair, with each time revealing mold in the sump filter. (*Id.* at 255:20-257:16.)
2. Plaintiff Beierschmitt testified that she had service technicians to her home on multiple occasions between 2005 and 2008 for reasons unrelated to mold or odor in her Duet washer. Each time, she spoke to the technicians about mold in her Duet washer, and "[w]hatever they said, I would try in hopes to remedy, you know, the problem there." (*Id.* at 263:13-264:10.)
3. On May 27, 2008, another service technician from Lowe's Service Advantage examined Plaintiff Beierschmitt's washer. (*Id.* at 270:19-271:4.) The service technician informed Plaintiff Beierschmitt that she had an issue with "hard water" and refused to replace the door seal on her Duet washer because it was "cosmetic." (*Id.* at 271:5-14.)

I. Plaintiff Sylvia Bicknell (Florida)

1. A service technician came to Plaintiff Bicknell's home sometime in early 2009. He ran the machine through the cycles and checked the hoses, but did not change out any parts in her Duet washer. (Bicknell Dep. at 69:13-7; 70:7; 156:11-24.)
2. The service technician also sold to Plaintiff Bicknell a package of Affresh after explaining to her that it would help with her "smelly clothes." Plaintiff Bicknell used Affresh on one occasion, but could not determine whether it had any effect on the smell in her washer and did not finish the package. (*Id.* at 115:3-24; 118:9-16; 189:1-9.)

J. Plaintiff Paula Call (California)

1. Plaintiff Call did not have a service technician examine or work on her Duet washer because she would have to pay for the service call. (Call Dep. at 344:1-21; 345:4-6; 349:10-22; 350:22-351:5.)

K. Plaintiff Mara Cohen (New York)

1. Plaintiff Cohen had her machine serviced by Willman's Appliance due to a misconnected wire, and the problem was corrected. (Cohen Interrog. Resp. No. 5; Cohen Dep. at 42:19-43:12; 43:24-44:2.) During the repair, Plaintiff Cohen asked about the mold and odor in the machine. According to Plaintiff Cohen, the repair technician acknowledged that it was a problem and advised her to leave the door open." (*Id.* at 44:7-16; 74:25-75:4; 78:13-79:2.)
2. When Plaintiff Cohen had a technician from Willman's over to repair her dryer, she again inquired about the mold and odor problems in her Duet washer. According to Plaintiff Cohen, he "acknowledged there was a problem" but did not know of a solution. (*Id.* at 78:19-20; 124:5-10.)

L. Plaintiff Pramila Gardner (Texas)

1. Plaintiff Gardner never had her Duet washing machine inspected, diagnosed, or repaired by any service technician. (Gardner Dep. at 126:10-16.)

M. Plaintiff Jeff Glennon (New York)

1. Plaintiff Glennon estimates that he has had ten service visits for the mold problems in his two Duet washers. (Glennon Dep. at 168:1-3.) Typically (but not always), his machine was serviced by A&E Factory Services, and the technician would inspect the machine, give a diagnosis (if there was one), provide a written receipt, and give his recommendations. (*Id.* at 135:18-136:6.)
2. Plaintiff Glennon had his second Duet machine serviced on March 10, 2008, at which time he was given recommendations for alleviating the mold problems. (*Id.* at 118:25-119:10; 129:25-130:18; 131:1-7.) Plaintiff Glennon does not believe he was charged for the visit. (*Id.* at 130:19-20.) The technician notes provided that there was "[n]o abnormal smell" and that the washer "tested good." (*Id.* at 134:22-24.)
3. Plaintiff does not recall any service visits after March 2008. (*Id.* at 183:22-25.) His best recollection is that the last service visit on his second machine was in March 2008. (*Id.* at 184:5-8.)

N. Plaintiff Karen Hollander (Florida)

1. Plaintiff Hollander has requested service on approximately three occasions, although she could not recall when or precisely how many times. She believes that her last service call was within the year prior to her deposition. (Hollander Dep. at 75:4-20; 141:16-142:2.)
2. On the first service visit, Plaintiff Hollander informed the service technician that her washer had mold on and inside the door seal and that her clothes had a bad odor. (*Id.* at 77:13-25; 78:2.) According to Plaintiff Hollander, the service technician “looked at the problem . . . and said he couldn’t do anything about it.” (*Id.* at 77:7-8; 79:1-11.)
3. The technician at the last service call removed some sort of tubing from the washer, which did not resolve the mold problem. (*Id.* at 75:20-25; 81:11-82:11.)
4. A couple of the times Plaintiff Hollander requested service were to address issues unrelated to the mold problems, although Plaintiff Hollander asked the technicians about the mold and mildew issues in her washer. (*Id.* at 143:8-21; 146:3-13.) The technicians told her that they could not do anything about the mold problems. (*Id.* at 143:23; 144:12-14; 146:15-17.)

O. Plaintiff Rebecca Nordan (Maryland)

1. In either March 2007 or March 2008, Whirlpool offered to replace the gasket on Plaintiff Nordan’s washer at her expense, but she declined the offer. (Nordan Dep. at 162:3-9.)

P. Plaintiff Maggie O’Brien (Indiana)

1. In January 2006, Plaintiff O’Brien had a service technician replace her machine’s door seal at no cost under her warranty terms. The service technician also provided instructions recommending using half of the HE detergent and not using liquid fabric softener anymore. (O’Brien Dep. at 27:1-19; 142:22-23.)

Q. Plaintiff Victoria Poulsen and her husband Henrik Poulsen (California)

1. Plaintiff Poulsen contacted a service technician in July 2008 to “deal with the error codes” and not the “smell issue.” (V. Poulsen Dep. at 159:14-16.) She never mentioned mold or odor issues to the technician, who was not affiliated with Whirlpool or Pearson’s. (*Id.* at 94:13-95:1; 202:14-21.) The Poulsens were charged \$75 for that service visit. (*Id.* at 96:6-14.)

R. Plaintiff Sonja Sandholm-Pound (New Jersey)

1. On September 28, 2005, Plaintiff Sandholm-Pound had her second Duet washing machine serviced for the mold problem and for a leaking issue by A Plus Appliance. (Sandholm-Pound Dep. at 198:16-199:4.) The technician instructed her to run an empty bleach cycle twice a week. (*Id.* at 198:19-25; 199:22-25; 209:4-8.) Plaintiff Sandholm-Pound also believes, but is not positive, that this technician recommended that she leave the door open between uses. (*Id.* at 263:11-264:15.) Plaintiff does not believe she was ever billed for the September 2005 service visit. (*Id.* at 203:15-21.)
2. Plaintiff Sandholm-Pound believes that on or around October 2006, a service technician from Quaker City Appliance replaced the gasket in her second Duet washer, although she has no recollection of the service visit, does not have any invoices or receipts for the call, and the service was not recorded in the call and service log she created. (*Id.* at 230:6-231:21; 232:19-234:23.) She does not recall asking any questions or discussing mold problems with the technician. (*Id.* at 236:3-11.)
3. On or about October 12, 2007, Plaintiff Sandholm-Pound's second Duet washer was serviced by A&E Factory Services to replace the gasket, as well as to replace a valve to prevent leaking. (*Id.* at 240:4-10; 244:18-245:21.) Plaintiff Sandholm-Pound does not recall asking any questions or having any discussion with the technician regarding the gasket or mold problems. (*Id.* at 247:9-17.) She did not pay for this service visit. (*Id.* at 245:5-7.)
4. Plaintiff Sandholm-Pound never had any technicians service her first or third Duet washing machines. (*Id.* at 266:19-22; 307:4-6.)

S. Plaintiff Shannon Schaeffer (California)

1. Plaintiff Schaeffer has never had a repair technician service her Duet washing machine. (Schaeffer Dep. at 196:12-14.)

T. Plaintiff Tracie Snyder (North Carolina)

1. Plaintiff Snyder's Duet HT was serviced many times under her extended warranty, but none of those service visits were specifically for mold or odor issues. (Snyder Dep. at 144:20-155:17; 160:5-161:13.) The service providers, however, gave instructions to reduce odor when Plaintiff Snyder inquired about it. (*Id.* at 144:19-145:11; 146:16-147:22.)

U. Plaintiff Andrea Strong (Arizona)

1. Plaintiff Strong declined to have her Duet washer repaired because her warranty had expired and she would have to pay for any repairs. (Strong Dep. at 88:23-89:2.)

V. Plaintiff Phillip Torf (Illinois)

1. Plaintiff Torf has never contacted Whirlpool with requests for repairs. (Torf Dep. at 142:10-18; 143:12-13; 147:15-19; 161:12-15.)
2. Plaintiff Torf first called Abt (his extended warranty provider) sometime in 2008 because his Duet Sport was making a noise during the spin cycle. (*Id.* at 35:8-12.) When the Abt service technician came to repair his Duet Sport, the technician discussed the mold on the door seal, advising Plaintiff Torf to run a bleach cycle to clean the Duet Sport, and if that was unsuccessful, to call for service to replace the seal and boot of his machine. (*Id.* at 42:21-43:4.) Plaintiff Torf contacted Abt shortly after that service call and requested that his seal and boot be replaced, and Abt replaced the seal at no charge, under the terms of the extended warranty. (*Id.* at 42:21-43:13, 50:12-17.) Because the replacement was not done properly, Plaintiff Torf again contacted Abt to “re-seal” the boot. (*Id.* at 43:24-44:4; 50:19-22.) Abt re-sealed the boot and Plaintiff Torf has had no additional service call since that time. (*Id.* at 44:5-10.)

W. Plaintiff Jane Werman (Illinois)

1. Although Plaintiff Werman called Abt to report the odor problem, she did not request or want service on her Duet washer. Plaintiff Werman has also never contacted Whirlpool to request service. (Werman Dep. at 118:24-119:20.)
2. Plaintiff Werman did not want service on her machine because the woman at Abt told her that there was no replacement part or service and because she “kn[e]w that it wasn’t anything a serviceman could help with.” (*Id.* at 185:4-20.)

X. Owners Ken and Lorna Benson (Michigan)

1. Mr. and Ms. Benson’s Duet was serviced for an F11 error code by Sears under their warranty. They had a repairman come on another occasion because the machine was becoming unbalanced. They learned that the machine was unbalanced because they were washing only a few items, and not because of a problem with the machine. They were not charged for this service call because they have an extended warranty. (Benson Decl. ¶¶ 8, 9, 11.)

Y. Owner Ericka Englert (Colorado)

1. Ms. Englert's Duet washer has never required a service call, nor has she ever made any complaint about her Duet. (Englert Decl. ¶ 11.)

Z. Owner Shirley Hand (Colorado)

1. Ms. Hand's Duet washer has never malfunctioned nor has it required a repair or service call of any kind. (Hand Decl. ¶ 7.)

AA. Owner Christine Piersol

1. Christine Piersol's Duet washer has never malfunctioned or required a repair or service call of any kind. (C. Piersol Decl. ¶ 7.)

BB. Owner Lauren Piersol (Florida)

1. Lauren Piersol's Duet washer has never malfunctioned or required a repair or service call of any kind. (L. Piersol Decl. ¶ 8.)

CC. Owner Janisa Tharp (Colorado)

1. Ms. Tharp has never made a service call or complaint about her Duet Sport. (Tharp Decl. ¶11.)

VII. PLAINTIFFS' DIFFERENT DAMAGES, IF ANY

A. Plaintiff Trina Allison (Ohio)

1. Because Plaintiff Allison's washer was under warranty when she had it serviced, she did not pay for the service. (Allison Dep. at 100:14-19.) Plaintiff Allison has not replaced her Duet washer. (*Id.* at 180:9-10.)
2. Plaintiff Allison has replaced "[p]robably a dozen" of her children's shirts and has "easily" replaced dozens of towels because of the odor problems with her Duet washer. (*Id.* at 166:15-23; 186:21-187:10.) She has not saved receipts from any of those purchases. (*Id.* at 187:11-14.)

B. Plaintiff Gina Glazer (Ohio)

1. Plaintiff Glazer has not paid to have her Duet Sport washer serviced, repaired, or replaced. (Glazer Dep. at 156:1-4; 90:13-19.)
2. Plaintiff Glazer has not replaced any clothing or other items because of problems with her Duet Sport washer. (*Id.* at 156:22-25; 225:20-226:2.) She has never taken any clothing to a Laundromat because of the problems. (*Id.* at 263:17-20.)

C. Owner Megan Connell (Ohio)

1. N/A

D. Owner Chris Dow (Ohio)

1. N/A

E. Owner Sandy Perry (Ohio)

1. N/A

F. Owner Mark L. Rodio (Ohio)

1. N/A

G. Owner Phyllis Yates (Ohio)

2. N/A

H. Plaintiff Bonnie Beierschmitt (New Jersey)

1. Plaintiff Beierschmitt has not replaced her Duet washer. (Beierschmitt Dep. at 308: 19-24; 393:24-394:1.)
2. Plaintiff Beierschmitt has replaced several sets of towels because of musty odors in those towels. (*Id.* at 309:4-22.)
3. Plaintiff Beierschmitt has purchased Affresh “[m]aybe” five times. (*Id.* at 215:3-8.) She also purchased bleach, Lysol, Fantastic, and vinegar to clean her machine. (*Id.* at 221:11-22.)
4. Plaintiff Beierschmitt’s husband took towels to a Laundromat on one occasion “[p]robably because they smelled.” (*Id.* at 407:7-18.)

I. Plaintiff Sylvia Bicknell (Florida)

1. Plaintiff Bicknell has not incurred any out-of-pocket expenses. (Bicknell Dep. at 158:3-12.)

J. Plaintiff Paula Call (California)

1. Plaintiff Call lost approximately \$500 in the form of ruined clothing. (Call Dep. at 357:5-6.)
2. Before her warranty expired, Plaintiff Call stored her Duet washer at a friend’s house and replaced the washer with a top-loader. (*Id.* at 29:19-23; 354:20-355:3.)

3. Plaintiff Call did not pay to have her Duet washer serviced or repaired. (*Id.* at 345:4-6.)

K. Plaintiff Mara Cohen (New York)

1. Plaintiff Cohen has never thrown away any clothes because of the odor. (Cohen Dep. at 118:10-12.)
2. Plaintiff Cohen has not paid to replace her Duet washer. (*Id.* at 156:11-16.)
3. Plaintiff Cohen does not recall whether she paid for the service visits. (*Id.* at 171:8-10; 185:7-13.)

L. Plaintiff Pramila Gardner (Texas)

1. Plaintiff Gardner disconnected her Duet sometime in 2009 because the matching dryer stopped working. She put the washer in storage and bought a Kenmore Oasis, a top-loading high-efficiency washer, for \$799 (plus tax). (Gardner Dep. at 133:20-135:12; 141:6-7.)
2. Plaintiff Gardner would like a refund for her Duet washer, dryer, and both pedestals because she bought them as a set and they had to be replaced as a set. (*Id.* at 166:16-167:8.)
3. Plaintiff Gardner estimates that she replaced approximately twenty towels because of odor. (*Id.* at 108:2-9.)

M. Plaintiff Jeff Glennon (New York)

1. Plaintiff Glennon has sent his family's "heavier items," namely the towels and jeans, to a Laundromat once a week for more than a year. He does not have receipts for those expenses. (Glennon Dep. at 46:22-25; 157:3-158:18.)
2. Plaintiff Glennon has spent approximately \$100-\$150 on products aimed at treating the mold problem, including Affresh, Smelly Washer, and bleach. (*Id.* at 165:1-11.)
3. Plaintiff Glennon has thrown out towels, sheets, and children's clothing because of the moldy odor. (*Id.* at 92:15-16.)
4. Plaintiff Glennon recalls paying approximately \$100 for a repair visit, although he cannot remember any specifics and did not obtain a receipt for the service visit. (*Id.* at 51:3-5; 52:7-11; 52:173:1-4; 173:16-174:3.)

N. Plaintiff Karen Hollander (Florida)

1. Plaintiff Hollander has not paid to have her Duet washer replaced. (Hollander Dep. at 150:15-21.)
2. Plaintiff Hollander purchased Affresh tablets and used them about five or six times. (*Id.* at 121:24-25.)
3. Plaintiff Hollander has not replaced any clothing or towels due to the odor. (*Id.* at 169:2-7.)

O. Plaintiff Rebecca Nordan (Maryland)

1. Plaintiff Nordan has not incurred any out-of-pocket expenses to repair or replace her machine. (Nordan Dep. at 166:6-167:5.) She still owns and uses her machine on a regular basis. (*Id.* at 171:4-11.)
2. Plaintiff Nordan testified that her machine has never damaged any of her laundry, but that she would rewash a load of towels approximately once a month. (*Id.* at 185:23-186:13.)

P. Plaintiff Maggie O'Brien (Indiana)

1. Plaintiff O'Brien has not paid to have her Duet washer serviced, repaired or replaced. (O'Brien Dep. at 163:5-16.)
2. Plaintiff O'Brien has not paid to replace washed items. (*Id.* at 146:13-147:25; 182:15-19.)

Q. Plaintiff Victoria Poulsen and her husband Henrik Poulsen (California)

1. Plaintiff Poulsen paid \$75.00 for a service visit to address error code issues. She did not mention any odor issues. (V. Poulsen Dep. at 96:6-14; H. Poulsen Dep. at 19:25-20:4.)
2. Plaintiff Poulsen believes she may have throw out a few towels due to odor "in the beginning." (V. Poulsen Dep. at 178:22-25.)
3. Plaintiff Poulsen testified that she and her husband purchased a few packages of Affresh. (*Id.* at 163:3-6.)

R. Plaintiff Sonja Sandholm-Pound (New Jersey)

1. Plaintiff Sandholm-Pound has replaced towels because of the odor and discoloration. (Sandholm-Pound Dep. at 307:16-308:11.) She has also replaced socks and other items that have been stuck in the door seal. (*Id.* at 309:3-9.)

2. Plaintiff Sandholm-Pound replaced her second Duet washer with the third Duet Steam washer. (*Id.* at 270:14-23; 281:21-23.) Her third Duet washer cost \$1299.99. (Sandholm-Pound Interrog. Resp. No. 1.)
3. Plaintiff Sandholm-Pound does not believe she has paid to have any of her Duet washers serviced or repaired. (*Id.* at 203:15-21; 245:5-7.)

S. Plaintiff Shannon Schaeffer (California)

1. Plaintiff Schaeffer has not paid to have her Duet washer serviced, repaired, or replaced. (Schaeffer Dep. at 196:12-14; 197:23-198:1.)
2. Plaintiff Schaeffer has replaced several white undershirts and t-shirts because they were not as white as they should be, although she does not have any receipts. (*Id.* at 199:23-200:16.)

T. Plaintiff Tracie Snyder (North Carolina)

1. Plaintiff Snyder's Duet HT has not ruined any item washed in it, although she has rewashed items. (Snyder Dep. at 173:11-12, 180:9-13.)
2. Plaintiff Snyder has not had to pay to have her washer serviced because all service was done under her extended warranty. (*Id.* at 149:1-5.)
3. Although she was forced to wash her clothes at a Laundromat for one week while the Duet HT's pump was being replaced, she has not been forced to use the Laundromat because of mold or odor issues. (*Id.* at 169:14-21.)

U. Plaintiff Andrea Strong (Arizona)

1. Plaintiff Strong has not paid to have her Duet washer serviced, repaired or replaced. (Strong Dep. at 88:23-89:2.)
2. Plaintiff Strong has not replaced any clothing, towels or other items because of problems with her Duet washer. (*Id.* at 117:11-14.)

V. Plaintiff Phillip Torf (Illinois)

1. Plaintiff Torf has spent approximately \$5.00 to \$10.00 on bleach to clean his Duet Sport washing machine since he purchased it. (Torf Dep. at 41:10-16.)

W. Plaintiff Jane Werman (Illinois)

1. Plaintiff Werman has thrown out towels and clothes (t-shirts, undershirts) and purchased replacement undershirts and towels. (Werman Dep. at 150:22-151:12; 153:16-21; 74:16-17; 159:4-11; 160:24-11.)

2. Plaintiff Werman has not paid to have her Duet washer serviced or replaced and has not paid to have her clothing washed at a Laundromat. (Werman Dep. at 119:12-16; 172:3-5; 202:23-203:1.)
- X. Owners Ken and Lorna Benson (Michigan)
1. N/A
- Y. Owner Ericka Englert (Colorado)
1. N/A
- Z. Owner Shirley Hand (Colorado)
1. N/A
- AA. Owner Christine Piersol
1. N/A
- BB. Owner Lauren Piersol (Florida)
1. N/A
- CC. Owner Janisa Tharp (Colorado)
1. N/A

VIII. PLAINTIFFS' DIFFERENT POST-SALE COMMUNICATIONS WITH WHIRLPOOL

- A. Plaintiff Trina Allison (Ohio)
1. Plaintiff Allison contacted Whirlpool regarding how to fix the mold problems in her washer “[i]mmediately” after the problems began (sometime within the first year). (Allison Dep. at 30:4-10; 43:13-16.) The Whirlpool representative advised her to use Affresh and to check underneath the door seal for foreign objects. (*Id.* at 27:24-28:17; 29:4-11.)
 2. Plaintiff Allison has never asked Whirlpool to replace her Duet washer, refund the purchase price, or take any other action other than send a service technician out. (*Id.* at 179:3-12.)
- B. Plaintiff Gina Glazer (Ohio)
1. Plaintiff Glazer contacted Whirlpool by e-mail on January 9, 2008 to complain about the washer odor. (Glazer Dep. at 191:5-192:13.) In response, Whirlpool sent an e-mail providing several recommendations—including leaving the washer door open between cycles, using only HE

detergent and/or running a monthly clean washer cycle with bleach. (*Id.* at 192:14-196:16.) Plaintiff Glazer did not follow the instruction to run a monthly maintenance cycle or to use only HE detergent. (*Id.* at 196:14-16; Expert Report of Paul M. Taylor at ¶ 11 & fig.2.)

2. Plaintiff Glazer again contacted Whirlpool by e-mail on May 21, 2008 to complaint about the odor problem. (*Id.* at 197:8-103:1.) A representative from Whirlpool Customer Loyalty Team responded on May 22, 2008, suggesting that Plaintiff try Affresh washer cleaner. (198:24-199:14.)
3. Plaintiff Glazer called Whirlpool after the second e-mail (in approximately late May 2008), at which time the customer service representative “told [her] that there was nothing Whirlpool could do for [her], but . . . send out a service representative if [she] wanted to pay for it.” (*Id.* at 162:11-21.) Plaintiff Glazer refused to have a service technician come to her house. (*Id.* at 163:1-4.)
4. Plaintiff Glazer does “not recall” if she asked Whirlpool for any specific recourse (*i.e.*, a refund, a new washing machine, a discount on a replacement washing machine or a free service call). (*Id.* at 167:11-25.)

C. Owner Megan Connell (Ohio)

1. N/A

D. Owner Chris Dow (Ohio)

1. N/A

E. Owner Sandy Perry (Ohio)

1. Ms. Perry contacted Whirlpool when her machine went into suds-lock. Whirlpool offered to send a service technician, but Ms. Perry decided to wait and see if use of HE detergent would fix the problem. After she began using HE detergent, she did not observe any other error codes. (Perry Decl. ¶ 9.)

F. Owner Mark L. Rodio (Ohio)

1. N/A

G. Owner Phyllis Yates (Ohio)

1. N/A

H. Plaintiff Bonnie Beierschmitt (New Jersey)

1. Plaintiff Beierschmitt first spoke to Whirlpool about her Duet washer sometime in 2005. (Beierschmitt Dep. at 262:5-8.) Whirlpool sent a technician out to look at Plaintiff Beierschmitt's machine. (*Id.* at 262:9-11.)
2. Plaintiff Beierschmitt testified that she called Whirlpool or Lowe's "quite a few times" from 2005 to 2008 about the mold problems in her washer, although she could not provide dates of those calls. According to Plaintiff Beierschmitt, she was unable to get a resolution. (*Id.* at 269:4-24.) During one call with Whirlpool after June 2008, Whirlpool told her that the issue was "cosmetic" and that Whirlpool does not cover cosmetic issues. (*Id.* at 273:13-274:5; 275:21-277:5.) Plaintiff Beierschmitt does not believe she spoke with anyone at Whirlpool or Lowe's after that point or communicated again by e-mail or regular mail. (*Id.* at 277:6-15.)
3. Plaintiff Beierschmitt never asked Whirlpool for a refund of the purchase price of her Duet washer or a replacement machine. She believes she asked Whirlpool for a free repair to her door seal, but Whirlpool refused as it was cosmetic. (*Id.* at 355:24-356:11.)

I. Plaintiff Sylvia Bicknell (Florida)

1. Plaintiff Bicknell believes she spoke to Whirlpool sometime in the first year she owned her Duet washer. (Bicknell Dep. at 125:23-126:6.) According to Plaintiff Bicknell, Whirlpool told her that they had received no reports of mold problems with Duet washers. (*Id.*)
2. Plaintiff Bicknell did not request any warranty service when she contacted Whirlpool. (*Id.* at 151:17-20.)

J. Plaintiff Paula Call (California)

1. Plaintiff Call first attempted to contact Whirlpool about odor problems in January 2005, three months after she purchased her Duet washer. Because she called on a non-business day nobody answered. (Call Dep. at 329:7-15; 332:5-24.)
2. Over several months, Plaintiff Call placed over a dozen calls to Whirlpool. She also sent letters to Whirlpool complaining about the odor issues. According to Plaintiff Call, Whirlpool told her that they would not service her machine unless she paid for the service call. (*Id.* at 333:2-336:13.)

K. Plaintiff Mara Cohen (New York)

1. Plaintiff Cohen has had at least four communications with Whirlpool: two by telephone and two letters from Whirlpool about Affresh. (Cohen Dep. at 77:5-9; 129:3-25.)
2. Plaintiff Cohen contacted Whirlpool regarding the mold and odor problems, possibly in October 2006 when she called Whirlpool to set up service for an electrical issue with her machine. (Cohen Dep. at 45:21-46:8.) According to Plaintiff Cohen, Whirlpool “acknowledged” the problem and recommended that Plaintiff leave the door open between uses. (*Id.* at 46:9-12; 75:8-12; 78:13-18; 79:1-2.)
3. Plaintiff Cohen also contacted Whirlpool again on or around January of 2009 and asked for either an exchange or a refund. (*Id.* at 126:7-15.) According to Plaintiff, Whirlpool told her that they would not give her a new machine. (*Id.* at 127:7-14.)

L. Plaintiff Pramila Gardner (Texas)

1. Plaintiff Gardner never contacted Whirlpool about her mold problems. (Gardner Dep. at 161:10-19.) She did not request that Whirlpool replace or service her Duet. (*Id.* at 112:15-21.)
2. In or around May 2006, after noticing the mold in her machine, Plaintiff went to the Whirlpool website for information regarding mold and mildew. (*Id.* at 110:15-25.)
3. Plaintiff stated that she tried contacting Whirlpool, but was put on hold for approximately thirty minutes and while on hold found the information she needed on Whirlpool’s website, prompting her to hang up before speaking with a Whirlpool representative. (Gardner Interrog. Resp. No. 2; *see also* Gardner Dep. at 109:1-22.) She never attempted to contact Whirlpool again and testified that she believed, based on internet postings, that Whirlpool could not fix the problem and it was not worth her time to wait at home for a repair person if the problem could not be fixed. (Gardner Dep. at 112:5-113:22; 117:2-22.)

M. Plaintiff Jeff Glennon (New York)

1. Plaintiff Glennon estimates that he communicated or contacted Whirlpool Customer Care approximately twenty times. (Glennon Dep. at 167:22-25.)
2. Plaintiff Glennon communicated with Whirlpool over the phone and through Whirlpool’s website regarding the mold problems in his first Duet washer. (*Id.* at 104:13-16.) Plaintiff Glennon believes he asked Whirlpool in an online correspondence to replace his machine, to which Whirlpool

provided a “standard answer” advising him to run a hot water cycle with bleach and to use several products to clean the machine, including Affresh. (*Id.* at 104:17-105:11.)

3. Plaintiff Glennon asked Whirlpool on another occasion to replace his first Duet washer because he “could not eliminate the problem or source of odors.” According to Plaintiff Glennon, Whirlpool “[a]gain” gave a “standard answer.” Plaintiff reported back that he tried those recommendations but was not successful in alleviating the problem. (*Id.* at 106:15-24.)
4. Plaintiff Glennon stated that because Whirlpool “refused to warrant[] the product,” P.C. Richards & Son gave him a credit toward a replacement machine. (*Id.* at 96:22-25.)
5. Plaintiff Glennon does not recall ever asking Whirlpool to “refund or exchange” his second Duet washer. (*Id.* at 154:7-17.)

N. Plaintiff Karen Hollander (Florida)

1. Plaintiff Hollander made “three or four” telephone calls to Whirlpool regarding the mold problems in her Duet washer. (Hollander Dep. at 127:9-12.)
2. The first time Plaintiff Hollander contacted Whirlpool regarding the mold problems in her washer, the representative told Plaintiff that she could not help her over the phone but set up an appointment for a repair technician to come out to assess her machine. (*Id.* at 76:3-77:2.)
3. Plaintiff Hollander contacted Whirlpool again shortly after the first service call, at which time Whirlpool suggested that Plaintiff Hollander try using Affresh tablets. Whirlpool did not send a technician to her house that time. (*Id.* at 79:17-14; 80:14.)
4. Plaintiff Hollander contacted Whirlpool again to tell Whirlpool that the Affresh tablets did not work and that she had followed her Use and Care Guide. According to Plaintiff Hollander, Whirlpool could only recommend using Affresh tablets every few months. (*Id.* at 80:20-81:8.)
5. On another telephone call with Whirlpool, Whirlpool recommended running Clorox bleach with water through the machine. (*Id.* at 148:4-18.)

O. Plaintiff Rebecca Nordan (Maryland)

1. Plaintiff Nordan believes that she called Whirlpool four or five times to discuss the problems with her Duet washer. (Nordan Dep. at 36:24-25.)

2. Plaintiff Nordan first contacted Whirlpool by telephone in “late 2005” and told Whirlpool that there was a “foul odor and a bad smell in the washer.” (*Id.* at 160:1-14.) According to Plaintiff Nordan, Whirlpool refused to send out a repair person to look at her machine. (*Id.*) Whirlpool did, however, recommend that Plaintiff Nordan run empty cycles of hot water and bleach to combat mold problems in her machine. (*Id.* at 53:8-20, 56:11-19.)
3. Plaintiff Nordan also contacted Whirlpool by telephone in March 2007 and again in March 2008. (*Id.* at 163:.) When Plaintiff Nordan called Whirlpool in March 2007, Whirlpool recommended that Plaintiff Nordan run Affresh in her machine. (*Id.* at 57:11-21.)

P. Plaintiff Maggie O’Brien (Indiana)

1. Plaintiff O’Brien first contacted Whirlpool by e-mail in January 2006 to complain about the problems she was experiencing with her machine. (O’Brien Dep. at 76:19-77:1.) She informed Whirlpool that there was mold on her door seal and in her detergent dispenser drawer. (*Id.* at 155:4-11.) A technician came to Plaintiff O’Brien’s home, in response to her e-mail, and replaced the door seal on her machine and provided remediation instructions. (*Id.* at 142:22-23.)
2. Plaintiff O’Brien complained to Whirlpool again in February 2006. (*Id.* at 157:3-22.) Whirlpool responded by offering several cleaning solutions, including running a bleach cycle and wiping the rubber gasket with a bleach and water solution at the end of each cycle. (*Id.* 157:10-158:4.) Plaintiff O’Brien claims that she followed these procedures after making several modifications to them. (*Id.*)
3. Plaintiff O’Brien complained to Whirlpool in September 2007 by e-mail. In response, Whirlpool recommended that Plaintiff O’Brien try using Affresh in her washer. (*Id.* at 159:21-160:20.)

Q. Plaintiff Victoria Poulsen and her husband Henrik Poulsen (California)

1. Plaintiff Poulsen e-mailed Whirlpool in March 2008 to complain about F-11 and FdL error codes on her Duet HT washer. (V. Poulsen Dep. at 179:19-22.)
2. Plaintiff Poulsen called Whirlpool in April of 2008 and requested that they replace her control board; Whirlpool responded by instructing her to request a service technician. (*Id.* at 190:191:2-7.) Although she had been experiencing odor issues, she did not complain about odor to Whirlpool because it was not a “major problem for [her].” (*Id.* at 171:3-7.)

R. Plaintiff Sonja Sandholm-Pound (New Jersey)

1. On or about September 24, 2005, Plaintiff Sandholm-Pound contacted Whirlpool by telephone to report “leaking and mold issues” with her second Duet washing machine. (Sandholm-Pound Dep. at 191:2-24.) Plaintiff requested a replacement washer, which the Whirlpool representative refused to do. (*Id.* at 195:21-196:1.)
2. Plaintiff Sandholm-Pound contacted Whirlpool again on October 4, 2006, regarding mold in the door seal of her second Duet washing machine. (*Id.* at 219:22-220:9.) She was advised to continue wiping away the mold and offered to send a technician to replace the door seal. (*Id.* at 223:5-15; 229:19-230:1.) Plaintiff cannot recall if Whirlpool communicated any other steps to remediate the mold problems. (*Id.* at 223:12-224:9.) Based on her notes of the conversation, Plaintiff Sandholm-Pound may have also been transferred to the safety department as she thought that the mold in her washer presented a safety issue. (*Id.* at 226:14-227:18.)
3. Plaintiff Sandholm-Pound believes she contacted Whirlpool around October 2007, who arranged for service with A&E Factory Service for problems with mold on the gasket of her second washer and because the washer was leaking. (*Id.* at 244:15-245:21.)
4. On April 15, 2008, Plaintiff Sandholm-Pound contacted Whirlpool Customer Care regarding the mold “issues” in her second Duet washer. (*Id.* at 249:6-249:6.) Plaintiff was offered a 15% discount on the purchase of a new Whirlpool washing machine, which she chose not follow-up on. (*Id.* at 255:19-256:18.)
5. Plaintiff Sandholm-Pound has never contacted Whirlpool or the retailers regarding her first or third Duet machines. (*Id.* at 221:1-3; 266:19-267:5; 301:2-10; 306:13-15.)

S. Plaintiff Shannon Schaeffer (California)

1. Plaintiff Schaeffer does not recall when or how many times she contacted Whirlpool for recommendations to fix the mold and odor problems, but believes contacted Whirlpool once in late 2008 or January 2009. (Schaeffer Dep. at 184:5-19.)
2. The Whirlpool representative recommended trying Affresh, using bleach, using less fabric softener, and leaving the door “ajar.” (*Id.* at 131:1-10; 222:9-10; 225:10-22.) Plaintiff Schaeffer did not request service or a replacement machine. (*Id.* at 133:8-11.) She did request that Whirlpool send her a free Affresh package, which Whirlpool refused to do. (*Id.* at 134:9-14.)

T. Plaintiff Tracie Snyder (North Carolina)

1. In approximately spring of 2008, Plaintiff Snyder's husband contacted Whirlpool by telephone. Plaintiff Snyder testified that her husband was told that Whirlpool "wouldn't do anything about the problem until [their] extended warranty was up." (Snyder Dep. at 24:21-25:22; 55:7-13.)
2. Plaintiff Snyder contacted Whirlpool by telephone in summer 2008 and was told that Whirlpool could not do anything until the extended warranty expired. (*Id.* at 44:23-46:13; 55:7-13.) She did not request a repair technician. (*Id.* at 47:11-14.)

U. Plaintiff Andrea Strong (Arizona)

1. In November 2007, Plaintiff Strong called Whirlpool to see if they had any suggestions for the odor she was experiencing with her machine. (Strong Dep. at 84:14-19.) In response, Whirlpool recommended using Affresh tablets, leaving the washer door open after use and running a maintenance cycle with hot water cycle, bleach and no clothing. (*Id.* at 88:12-18.)
2. Plaintiff Strong called Whirlpool again in January 2008, telling them that she purchased Affresh and "it did not work." (*Id.* at 92:3-6.) In response, the Whirlpool representative explained that the problem might be caused by the design of the washer in that it is designed to hold water in the bottom. (*Id.* at 92:8-11.) Whirlpool also offered to send a repair technician, but Plaintiff Strong declined that offer because her washer was out of warranty and she would have to pay for the service call. (*Id.* at 88:23-89:2.)

V. Plaintiff Phillip Torf (Illinois)

1. Plaintiff Torf never contacted Whirlpool to complain about, or request service for, the mold problems or any other issue with his Duet Sport. (Torf Dep. at 142:10-18; 143:12-13; 147:15-19; 161:12-14.)

W. Plaintiff Jane Werman (Illinois)

1. Plaintiff Werman never communicated her complaints to anyone at Whirlpool. (Werman Dep. at 138:24-139:6.) She has never asked Whirlpool for any kind of compensation and has never asked for a new machine. (*Id.* at 238:17-239:2.)

X. Owners Ken and Lorna Benson (Michigan)

1. N/A

Y. Owner Ericka Englert (Colorado)

1. N/A

Z. Owner Shirley Hand (Colorado)

1. N/A

AA. Owner Christine Piersol (Florida)

1. N/A

BB. Owner Lauren Piersol (Florida)

1. N/A

CC. Owner Janisa Tharp (Colorado)

1. N/A